



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, The Code, 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, Governor 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 ARC number which appears before each agency heading is assigned by the Administrative Rules Co-ordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6, 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 administrative rules co-ordinator and published in the Bulletin.

WAYNE A. FAUPEL, Code Editor  
PHYLLIS BARRY, Deputy Code Editor  
LAVERNE SWANSON, Administrative Code Assistant

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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Friday, October 21, 1983	November 9, 1983
11	Friday, November 4, 1983	November 23, 1983
12	Friday, November 18, 1983	December 7, 1983

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## SUBSCRIPTION INFORMATION

### Iowa Administrative Bulletin

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The Administrative Rules Review Committee will hold its regular meeting Tuesday, November 8, 1983, 10:00 a.m. and Wednesday, November 9, 1983, in Committee Room 22, State Capitol. The following rules will be reviewed:

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>AUDITOR OF STATE[130]</b> Mutual deposits, 4.2(4), 4.2(5) IAB 10/12/83 ARC 4127	Auditor of State Savings and Loan Division Lucas State Office Bldg. Des Moines, Iowa	November 2, 1983 9:00 a.m.
<b>CITY FINANCE COMMITTEE[230]</b> Detailed budget, 2.1(7) IAB 10/26/83 ARC 4192	Governor's Small Conference Room Room 11 Capitol Building Des Moines, Iowa	November 18, 1983 1:00 p.m.
<b>COMMERCE COMMISSION[250]</b> Information about disconnection, 19.4(15), 20.4(15) IAB 9/14/83 ARC 4048 Public utilities, management efficiency, level of profit IAB 9/28/83 ARC 4101	Commission Hearing Room First Floor Lucas State Office Building Des Moines, Iowa Commission Hearing Room First Floor Lucas State Office Building Des Moines, Iowa	October 26, 1983 10:00 a.m.  October 27, 1983 10:00 a.m.
<b>CONSERVATION COMMISSION[290]</b> Blinds and decoys on game management areas, ch 1 IAB 10/26/83 ARC 4173  Legal residency defined, 5.1 IAB 10/26/83 ARC 4174  Scuba and skin spearing of rough fish 6.2, 6.4 IAB 10/26/83 ARC 4175  Motor vehicle restrictions 9.1, 9.2 IAB 10/26/83 ARC 4176  Mussels-Methods and seasons 12.1(1) IAB 10/26/83 ARC 4178  Examining and copying of public records, 63.2 IAB 10/26/83 ARC 4179  License depositories 66.5, 66.6 IAB 10/26/83 ARC 4180	Wildlife Offices Fourth Floor Wallace State Office Bldg. Des Moines, Iowa Enforcement Offices Fourth Floor Wallace State Office Bldg. Des Moines, Iowa Fisheries Section Conservation Commission Wallace State Office Bldg. Des Moines, Iowa Wildlife Section Conservation Commission Wallace State Office Bldg. Des Moines, Iowa Fisheries Section Conservation Commission Wallace State Office Bldg. Des Moines, Iowa Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	November 18, 1983 10:00 a.m.  November 18, 1983 10:00 a.m.  November 15, 1983 10:30 a.m.  November 18, 1983 10:00 a.m.  November 15, 1983 10:00 a.m.  November 17, 1983 10:00 a.m.  November 16, 1983 10:00 a.m.
<b>EMPLOYMENT SECURITY[370]</b> Employer's contribution and charges, 3.40(2)"a" IAB 10/12/83 ARC 4121 (See also ARC 4120) Taxable wages-successor, 9.7(1), 9.7(3) IAB 10/12/83 ARC 4128	Job Service Office 1000 E. Grand Ave. Des Moines, Iowa  Job Service Office 1000 E. Grand Ave. Des Moines, Iowa	November 2, 1983 9:30 a.m.  November 2, 1983 9:30 a.m.
<b>ENERGY POLICY COUNCIL[380]</b> Contested case proceedings, 11.15 IAB 10/12/83 ARC 4108	Conference Room Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	November 18, 1983 10:00 a.m.

**HEALTH DATA COMMISSION[465]**

Uniform hospital billing form, ch 5  
 Submission of data, ch 6  
 Data accessibility and confidentiality,  
 Ch 7  
 IAB 10/26/83 ARC 4190

Conference Room  
 Insurance Department  
 Ground Floor  
 Lucas State Office Bldg.  
 Des Moines, Iowa

November 17, 1983  
 1:00 p.m.

**HEALTH DEPARTMENT[470]**

Newborn screening, 4.6 to 4.9  
 IAB 10/12/83 ARC 4166  
 (See also ARC 4122)

Conference Room  
 Third Floor  
 Lucas State Office Bldg.  
 Des Moines, Iowa

November 1, 1983  
 1:00 p.m.

State plumbing code,  
 amendments to ch 25  
 IAB 10/26/83 ARC 4200

Conference Room  
 Third Floor  
 Lucas State Office Bldg.  
 Des Moines, Iowa

November 15, 1983  
 1:00 p.m.

Licensing of mobile home parks  
 amendments to ch 71  
 IAB 10/26/83 ARC 4201

Conference Room  
 Third Floor  
 Lucas State Office Bldg.  
 Des Moines, Iowa

November 15, 1983  
 10:00 a.m.

**HUMAN SERVICES DEPARTMENT[498]**

Services programs

See ARC 4163

Residential care facility - payment

See ARC 4150

Ambulatory surgical centers,  
 77.24, 78.26, 79.1(2), 80.2(2)

See ARC 4151

Amount, duration and scope of  
 medical and remedial services  
 78.2(2)"a", 78.3

See ARC 4153 and  
 4152

Reductions of reimbursement,  
 Medical assistance, chs 78, 79

See ARC 4154

Reduction of medical assistance  
 reimbursement, 79.1(8)

See ARC 4155

Payment to foster care  
 137.6(1)

See ARC 4157

Reduction of claims for  
 foster care, 145.3(5)

See ARC 4158

In-home health related  
 program, 148.4(3)

See ARC 4159

Distribution of displaced  
 homemaker funds, 160.9(3)

See ARC 4161

Distribution of domestic  
 abuse funds, 161.8(2)

See ARC 4162

Unemployed parent workfare  
 Ch 59  
 IAB 10/26/83 ARC 4206

Iowa Dept. of Human Services  
 409 North 4th  
 Burlington, Iowa

November 22, 1983  
 10:00 a.m.

Iowa Public Service Company  
 Community Room 804  
 North Main  
 Carroll, Iowa

November 18, 1983  
 10:00 a.m.

United Way Building  
 712 Third Avenue, S.E.  
 Cedar Rapids, Iowa

November 18, 1983  
 1:00 p.m.

Iowa Dept. of Human Services  
 Conference Room A  
 12 Scott Street  
 Council Bluffs, Iowa

November 22, 1983  
 1:00 p.m.

Court House  
 Creston, Iowa

November 23, 1983  
 9:30 a.m.

Iowa Dept. of Human Services  
 Bicentennial Building  
 428 Western Avenue  
 5th Floor Conference Room  
 Davenport, Iowa

November 21, 1983  
 10:00 a.m.

**HUMAN SERVICES DEPARTMENT[498] (cont'd)**

Iowa Dept. of Human Services Winneshiek County Office 1111 Paine Street Decorah, Iowa	November 17, 1983 10:00 a.m.
Iowa Dept. of Human Services Des Moines District Office Conference Room 3619½ Douglas Des Moines, Iowa	November 17, 1983 1:30 p.m.
Iowa Dept. of Human Services Dubuque County Town Clock Plaza, Nesler Centre Suite 360, Third Floor Conference Room Dubuque, Iowa	November 17, 1983 10:00 a.m.
Iowa Dept. of Human Services Webster County Office 23 North Seventh Street Fort Dodge, Iowa	November 22, 1983 2:00 p.m.
Marshalltown Annex 206 West State Street Marshalltown, Iowa	November 17, 1983 1:00 p.m.
Iowa Dept. of Human Services Mason City District Office 1531 South Monroe Mason City, Iowa	November 21, 1983 2:00 p.m.
Ottumwa Public Library 129 North Court Ottumwa, Iowa	November 18, 1983 1:00 p.m.
2nd Floor Conference Room 808-5th Street Sioux City, Iowa	November 17, 1983 7:00 p.m.
Bethany Lutheran Church 15 West 14th Street Spencer, Iowa	November 22, 1983 7:00 p.m.
Second Floor Conference Room Black Hawk County Dept. of Human Services KWWL Building 500 East Fourth Street Waterloo, Iowa	November 17, 1983 3:00 p.m.

**IOWA FAMILY FARM DEVELOPMENT  
AUTHORITY[523]**

Conservation farm equipment, 4.2(7)  
Maximum loan, 4.7  
IAB 10/12/83 ARC 4134

Authority Office 550 Liberty Bldg. 418 Sixth Ave. Des Moines, Iowa	November 2, 1983 10:00 a.m.
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**MERIT EMPLOYMENT DEPARTMENT[570]**

Separations, Disciplinary actions and  
reduction in force, 11.3  
IAB 10/26/83 ARC 4171  
(See also ARC 4170, herein)

Grimes Conference Room North half, First Floor Grimes State Office Bldg. Des Moines, Iowa	December 8, 1983 9:15 a.m.
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**PLANNING AND PROGRAMMING[630]**

Open meetings, 19.7(5)  
Conflict of interest, 19.11  
IAB 10/12/83 ARC 4133

Conference Room Office for Planning and Programming 523 E. 12th St. Des Moines, Iowa	November 2, 1983 1:00 p.m.
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**REAL ESTATE COMMISSION[700]**

Brokers and salespersons,  
amendments to ch 1  
IAB 10/26/83 ARC 4193

Commission Office  
1223 E. Court Ave.  
Suite 205  
Des Moines, Iowa

November 22, 1983  
9:00 a.m.

**SECRETARY OF STATE[750]**

Deputy commissioner of elections, 3.2  
Business corporations, forms, 4.2(2)  
Judiciary, 6.12  
Filing complaints, 7.2  
Manner of voting 10.4(5)  
IAB 10/12/83 ARC 4110

Office of the  
Secretary of State  
Main Floor  
Capitol Building  
Des Moines, Iowa

November 1, 1983  
1:30 p.m.

**VETERINARY MEDICINE, BOARD OF[842]**

Organization and duties, permits,  
quorum, amendments to chs 1, 2, 3, 4, 5  
IAB 10/26/83 ARC 4191

Second Floor  
Conference Room  
Henry A. Wallace Bldg.  
Des Moines, Iowa

November 15, 1983  
1:00 p.m.

**ARC 4192****CITY FINANCE COMMITTEE[230]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code sections 384.13 to 384.22, the City Finance Committee gives notice of its intention to amend chapter 2 by adding to the definitions subrule 2.1(7) "Detailed budget" as stated in Iowa Code section 384.16.

A definition of "detailed budget" will provide assistance to city budget preparation personnel as to what documentation they must include in their budget detail.

A public hearing is scheduled for November 18, 1983, in the Governor's Small Conference Room, Room 11, State Capitol Building, Des Moines, Iowa, at 1:00 p.m. Persons may present their views at this public hearing either orally or in writing.

Any interested person may make written suggestions or comments on this proposed rule prior to November 18, 1983. Written material should be directed to: Ronald J. Amosson, Chairman, City Finance Committee, State Comptroller's Office, State Capitol Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact Ronald J. Amosson, Chairman, City Finance Committee, at (515) 281-3078 or in the State Comptroller's Office, Lower Level, State Capitol Building, Room 12.

This rule is intended to implement Iowa Code chapter 384.

The following addition to chapter 2 is proposed.

Amend rule 2.1(384, 388) by adding the following new definition.

2.1(7) "Detailed budget" shall mean documenting revenues by source and fund, and documenting expenditures by program, fund, activity, and character.

**ARC 4173****CONSERVATION COMMISSION[290]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code sections 107.24, 109.6, and 111.35, the State Conservation Commission hereby gives Notice of Intended Action to rescind Chapter 1, "Game Management Areas," Iowa Administrative Code, and to adopt a new chapter, "Blinds and Decoys on Game Management Areas," in lieu thereof.

This chapter gives the regulations pertaining to the use of blinds and decoys on game management areas, including definitions, permissible types, restrictions on use, and removal requirements.

Any interested person may make written suggestions or comments on this proposed rule prior to November 18, 1983. Such written materials should be directed to the Wildlife Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the wildlife section at 515/281-6156 or at the wildlife offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on November 18, 1983 at 10:00 a.m. in the conference room on the fourth floor of the Wallace State Office Building. Persons may present their views at the public hearing either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement the provisions of Iowa Code chapters 109 and 111.

**CHAPTER 1  
BLINDS AND DECOYS ON  
GAME MANAGEMENT AREAS**

**290—1.1(109,111) Blinds.** The use of blinds on all game management areas is restricted.

**1.1(1) Definition.** For the purposes of these rules, a "blind" is defined as a constructed place of ambush or concealment for the purpose of hunting, observing or photographing any species of wildlife.

**1.1(2) Ownership.** Any person may construct a blind on a game management area using only the natural vegetation found on the area, except that no trees or parts of trees other than willows may be cut for that purpose, and the construction of such a blind does not give that person any proprietary right to use the blind.

**1.1(3) Construction materials.** No person shall bring onto a game management area, to use for the construction of a blind thereon, any sawed lumber, wire, nails, bolts, posts or pipe, metal cable, or hardware of any type, except when these materials are parts of portable blinds which are self-contained units readily movable from one site to another.

**1.1(4) Protection of trees.** No person shall drive any nail, spike, pin or any other object, metal or otherwise, into any tree on a game management area for the purpose of constructing a blind or to facilitate access to a blind or to a hunting location above the ground.

**1.1(5) Removing blinds.** Except as otherwise provided in the Iowa Administrative Code, portable blinds as described in 1.1(3) above, are prohibited during the open season for taking waterfowl on any game management area between the hours of one hour after legal shooting time and midnight of each day. A portable blind constructed on a boat shall be considered to be removed from the area when the boat supporting such blind is tied up or moored at an approved access site.

**290—1.2(109,111) Decoys.** The use of decoys on all game management areas is restricted.

**1.2(1) Definition.** For the purposes of these rules, a "decoy" is defined as a bird or animal, or a likeness of one, used to lure game within shooting range.

## CONSERVATION COMMISSION[290] (cont'd)

1.2(2) Removal of decoys. Except as otherwise provided in the Iowa Administrative Code, decoys are prohibited on all game management areas between the hours of one hour after legal shooting time and midnight of each day. Decoys shall be considered removed from an area if they are picked up and placed within a boat or other container at an approved access site.

290—1.3(109,111) **Exemptions.** Nothing in these rules shall apply to conservation commission personnel and law enforcement officials when in performance of their duties.

These rules are intended to implement Iowa Code sections 109.6 and 111.35.

**ARC 4174****CONSERVATION COMMISSION[290]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 107.24, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 5, "Legal Residency", Iowa Administrative Code.

This rule defines the requirements for legal residence as referred to in Iowa Code chapter 110 insofar as it applies to the issuance of sport fishing, small game hunting, combined hunting and fishing, and trapping licenses.

Any interested person may make written suggestions or comments on this proposed rule prior to November 18, 1983. Such written materials should be directed to the Enforcement Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the enforcement section at 515/281-5919 or at the enforcement offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on November 18, 1983, at 10:00 a.m. in the conference room on the fourth floor of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement the provisions of Iowa Code sections 110.1 and 110.24.

The following rule is proposed.

Rule 290—5.1(109) is rescinded and the following adopted in lieu thereof.

**290—5.1(109) Defined.** The requirements for legal residence as referred to in Iowa Code chapter 110 insofar as it applies to the issuance of sport fishing, small game hunting, combined hunting and fishing, and trapping licenses are concerned shall be as follows: Any individual

who has lived in the state continuously for a period of thirty days immediately prior to the date of issuance shall be considered a legal resident of the state for the purpose of purchasing a sport fishing, small game hunting, combined hunting and fishing, or trapping license.

This rule is intended to implement the provisions of Iowa Code sections 110.1 and 110.24.

**ARC 4175****CONSERVATION COMMISSION[290]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 107.24, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 6, "Scuba and Skin Spearfishing of Rough Fish," Iowa Administrative Code.

This rule establishes seasons, areas, and methods of take for the spearfishing of rough fish by scuba and skin divers.

Any interested person may make written suggestions or comments on this proposed rule prior to November 15, 1983. Such written materials should be directed to the Fisheries Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the fisheries section at 515/281-5208 or at the fisheries office on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on Tuesday, November 15, 1983 at 10:30 a.m. in the conference room on the fourth floor of the Wallace State Office Building. Persons may present their views at the public hearing either orally or in writing.

This rule is intended to implement Iowa Code chapter 109.

The following amendments are proposed.

ITEM 1. Rule 290—6.2(109) is amended to read as follows:

**290—6.2(109) Prohibited areas.** Scuba and skin spearfishing for rough fish ~~will be prohibited~~ *shall be lawful* in all natural lakes in Iowa ~~between May 1 and October 1 of each year, except on West Okoboji and Spirit Lakes in Dickinson County, where no seasonal limitations will be invoked year-round.~~

Subrules 6.2(1) through 6.2(5) shall remain unchanged. Subrule 6.2(6) is deleted.

Subrule 6.2(7) shall remain unchanged and is renumbered subrule 6.2(6).

ITEM 2. Rule 290—6.4(109) is amended to read as follows:

**290—6.4(109) Prohibited equipment.** Prohibited equipment and methods shall be:

1. No power or exploding spear heads will be permitted.

## CONSERVATION COMMISSION[290] (cont'd)

2. No guns powered by gunpowder explosive or explosives or compressed gas will be permitted.

3. A spear gun may not be cocked or fired within one hundred feet of any swimming beach area.

4. ~~It shall be unlawful to cock or discharge a powered spear gun above the surface of the water.~~

These rules are intended to implement Iowa Code sections 109.38, 109.39 and 109.67.

**ARC 4176****CONSERVATION COMMISSION[290]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code sections 107.24 and 109.6, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 9, "Motor Vehicle Restrictions," Iowa Administrative Code.

This rule regulates the use of motor vehicles on game management areas, and makes special regulations for the convenience of certain handicapped persons.

Any interested person may make written suggestions or comments on this proposed rule prior to November 18, 1983. Such written materials should be directed to the Wildlife Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the wildlife section at 515/281-6156 or at the wildlife offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on November 18, 1983 at 10:00 a.m. in the conference room on the fourth floor of the Wallace State Office Building, at which persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement the provisions of Iowa Code chapter 109.

The following amendments are proposed.

ITEM 1. Rule 290—9.1(109) is rescinded and the following adopted in lieu thereof:

**290—9.1(109) Game management areas.** The use of motor vehicles on all game management areas is restricted.

**9.1(1) Roads and parking lots.** Except as otherwise provided in these rules, motor vehicles are prohibited on a game management area except on constructed and designated roads and parking lots.

**9.1(2) Employees exempt.** Nothing in this rule shall apply to conservation commission personnel and other authorized persons engaged in research, management or enforcement when in performance of their duties.

This rule is intended to implement Iowa Code section 109.6.

ITEM 2. Rule 290—9.2(109) is rescinded and the following adopted in lieu thereof:

**290—9.2(109) Handicapped persons.** Handicapped persons may use certain motor vehicles on game management areas, according to the restrictions set out in this rule, in order that they might enjoy such uses as are available to others.

**9.2(1) Definitions.** For purposes of this rule, 9.2(109), the following definitions shall apply:

a. "Handicapped person" means an individual commonly termed a paraplegic or quadriplegic, with paralysis or a physical condition of the lower half of the body with the involvement of both legs, usually due to disease or injury to the spinal cord; a person who is a simple or double amputee of the legs; or a person with any other physical affliction which makes it impossible to ambulate successfully without the use of a motor vehicle.

b. "Motor vehicle" means any self-propelled vehicle having at least three wheels designed for off-road use, weighing less than one thousand pounds, and registered as a motor vehicle under Iowa Code chapter 321.

**9.2(2) Permits.** Each handicapped person must have a permit issued by the director of the state conservation commission in order to use motor vehicles on game management areas. Such permits will be issued without charge. Applicants must submit certificates from their doctors stating that the applicants meet the criteria describing handicapped persons.

**9.2(3) Approved areas.** A permit holder must contact the custodian of the specific area(s) that the permit holder wishes to use annually. The custodian will determine which areas or portions of areas will not be open to use by permittees, in order to protect the permittee from hazards or to protect certain natural resources of the area. The custodian will assist by arranging access to the area and by designating specific sites on the area where the motor vehicle may be used, and where it may not be used. The custodian will provide a map of the area showing the sites where use is permitted and bearing the custodian's signature and the date.

**9.2(4) Exclusive use.** The issuance of a permit does not imply that the permittee has exclusive use of an area. Permittees shall take reasonable care so as not to unduly interfere with the use of the area by others.

**9.2(5) Prohibited acts.** Except as provided in rule 290—9.1(109), the use of a motor vehicle on any game management area by a person without a valid permit, or at any site not approved on a signed map, is prohibited. Permits and maps must be carried by the permittee at any time the permittee is using a motor vehicle on a game management area, and must be exhibited to any conservation commission employee or law enforcement official upon request.

**9.2(6) Shooting from motor vehicle.** Except where prohibited by law, a handicapped person meeting the conditions of this rule may shoot from a stationary motor vehicle.

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

**ARC 4177**  
**CONSERVATION COMMISSION[290]**  
**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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 107.24, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 12, "Mussels—Methods and Seasons," Iowa Administrative Code.

This rule establishes seasons and methods of take for freshwater mussels.

Any interested person may make written suggestions or comments on this proposed rule prior to November 15, 1983. Such written materials should be directed to the Fisheries Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the fisheries section at 515/281-5208 or at the fisheries office on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on Tuesday, November 15, 1983 at 10:00 a.m. in the conference room on the fourth floor of the Wallace State Office Building. Persons may present their views at the public hearing either orally or in writing.

This rule is intended to implement Iowa Code chapter 109.

The following amendments are proposed.

Subrule 12.1(1) is rescinded and the following is inserted in lieu thereof:

**12.1(1) Seasons.** It shall be lawful to take mussels year-round from all waters of the state.

This rule is intended to implement Iowa code section 109.100.

**ARC 4178**  
**CONSERVATION COMMISSION[290]**  
**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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code sections 107.24 and 106.3, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 40, "Motor Regulations", Iowa Administrative Code.

This rule regulates the use of outboard motors on artificial lakes under the authority of Iowa Code chapter 106 and the commission's departmental rules. The amend-

ment eliminates the necessity of removing props from motors that exceed the horsepower limitations for certain artificial lakes as long as the motor is not operated or used as a source of propulsion.

Any interested person may make written suggestions or comments on this proposed rule prior to November 18, 1983. Such written materials should be directed to the Enforcement Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the enforcement section at 515/281-5919 or at the enforcement offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on November 18, 1983, at 10:00 a.m. in the conference room on the fourth floor of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement the provisions of Iowa Code sections 106.9 and 106.31.

The following amendment is proposed.

Rule 290—40.3(106) is rescinded and the following adopted in lieu thereof.

**290—40.3(106) Propulsion mechanism not in use.** Any power unit mounted or carried aboard a vessel, while not being used or operated as a source of propulsion, shall be lawful on artificial lakes, so long as the auxiliary power unit being used or operated as a source of propulsion is within the lawful horsepower limitation established for that lake.

This rule is intended to implement Iowa Code sections 106.9 and 106.31.

**ARC 4179**  
**CONSERVATION COMMISSION[290]**  
**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 Iowa Code §17A.4(1)"b".

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

Pursuant to authority of the Iowa Code, section 68A.3, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 63, "Examining and Copying of Public Records," Iowa Administrative Code.

These rules give the procedures to be followed by the commission and the public in the examination and copying of public records.

Any interested person may make written suggestions or comments on these proposed changes prior to November 17, 1983. Such written materials should be directed to the Director, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons

**CONSERVATION COMMISSION[290] (cont'd)**

who wish to convey their views orally may present those views in the Wallace State Office Building, fourth floor conference room, on November 17, 1983, at 10:00 a.m. At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement Iowa Code section 68A.3.

The following amendments are proposed.

Rule 290—63.2(68A) is amended by rescinding subrules 63.2(2) and 63.2(4) and inserting in lieu thereof the following:

**63.2(2)** Photocopy of a public record will be assessed at five cents per page. The actual cost will be charged for any blueprint, picture, or any other work product which is a copy of a public record. Surplus copies may be provided in fulfillment of requests at the same cost per copy as previously described.

**63.2(4)** Where the subject records are maintained by computer, charges are determined to be as follows:

a. Tape files—\$100 per file, copied only to 9-track tape with standard IBM labels.

b. 3 UP gummed mailing labels and 4 UP Cheshire labels thirty cents per 1,000 records read, and \$10.00 per 1,000 labels written. A minimum charge of \$15.00 or actual cost will be assessed, whichever is greater.

Programming time over ten minutes will be charged at the rate of \$20.00 per hour.

**ARC 4180**

**CONSERVATION COMMISSION[290]**

**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 Iowa Code §17A.4(1)“b”.

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

Pursuant to the authority of Iowa Code section 110.11, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 66, “License Depositories”, Iowa Administrative Code.

These rules describe the policy and procedures to be followed by the commission and license vendors in the distribution, sales, and accounting of hunting and fishing licenses.

Any interested person may make written suggestions or comments on these proposed changes prior to November 16, 1983. Such written materials should be directed to the Director, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally may present those views in the Wallace State Office Building, fourth floor conference room, on November 16, 1983, at 10:00 a.m. At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement Iowa Code section 110.11.

The following amendments are proposed.

ITEM 1. Subrule 66.5(5) is amended by adding the following new paragraph:

i. A depositary fails to make a full and complete monthly sales report and monthly remittance.

ITEM 2. 290—66.6(110) is rescinded and the following inserted in lieu thereof:

**290—66.6(110) Multiple establishment locations.** An application and security may be submitted for retail business establishments with multiple locations. For purposes of reporting and for determining the amount of the security, each application will be considered on a case-by-case basis and as mutually agreed upon by the depositary and the commission.

**ARC 4188**

**GENERAL SERVICES DEPARTMENT[450]**

**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 Iowa Code §17A.4(1)“b”.

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

Pursuant to the authority of Iowa Code chapter 18, the Iowa Department of General Services hereby gives Notice of Intended Action to amend 450—Chapter 1, Iowa Administrative Code.

Iowa Code section 17A.3(1) “a” and “b” requires all agencies to describe by rule their formal organization and course and methods of operation. The present adopted rules of the department do not contain information required by section 17A.3, and the purpose of this notice is to fill that void.

Any interested person may make written suggestions or comments on these proposed rules prior to November 15, 1983. Such written materials should be directed to the Director, Department of General Services, Level A, Hoover State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the director for an appointment.

These rules are intended to implement Iowa Code sections 18.3, 18.4, 18.7, 18.10, 98A.2, 303.9(2), 601C.2(2), and 601C.3.

The following amendments are proposed:

Re-number chapter 1 as chapter 6 and insert the following as a new chapter 1:

**CHAPTER 1 ORGANIZATION AND OPERATION**

**450—1.1(18) Function.** The Iowa department of general services was established by Iowa Code chapter 18. The department is responsible for purchasing goods and services for all state agencies, except those specifically exempted by law; printing; mail service; providing for the proper maintenance of buildings and grounds at the seat of government; risk management; records management; vehicle fleet management; state communications; and state and federal surplus property.

## GENERAL SERVICES DEPARTMENT[450] (cont'd)

**450—1.2(18) Organization and operations.**

**1.2(1) Location.** The department is located in the Hoover State Office Building, Capitol Complex, Des Moines, Iowa 50319; phone (515) 281-5856. Office hours are 8:00 a.m. to 4:30 p.m. Monday to Friday.

**1.2(2) Administration of the department.**

a. The chief executive officer of the department is the director of general services who is appointed by the governor with the approval of two-thirds of the members of the senate. The director serves at the pleasure of the governor.

b. The director is assisted by a deputy director who is appointed by the director and serves at the pleasure of the director.

**1.2(3)** In order to carry out the functions of the department, the following divisions have been established:

a. The general administration division is responsible for state complex mail, first aid, central supply, word processing, state surplus property, assignment of space in metropolitan Des Moines and capitol complex parking.

b. The buildings and grounds division is responsible for building and grounds maintenance in the capitol complex.

c. The communications division is responsible for administering, unifying and co-ordinating state-wide communications services.

d. The printing division is responsible for all copy machines, printing purchases, centralized printing, state document sales and storage.

e. The purchasing division is responsible for purchasing goods and services for all state agencies except those specifically exempted by law.

f. The records management division is responsible for functions assigned by Iowa Code chapter 304 and reviews records related systems for state agencies, maintains centralized records storage, and is responsible for micrographics services to state agencies.

g. The risk management division is responsible for analyzing loss exposures of state agencies and making recommendations for the purchase of insurance or other risk control programs for state agencies.

h. The federal surplus property division is responsible for the receipt, accounting and distribution of all federal surplus property to state agencies and political subdivisions.

i. The vehicle dispatcher division is responsible for the management of a fleet of vehicles for all state agencies except those exempted by law.

j. The budget and accounting division is responsible for internal accounting, inventory, vendor payment and budgeting for the department.

k. The personnel officer is responsible for recruitment, selection, training and payroll for employees of the department.

This rule is intended to implement Iowa Code section 18.3.

**450—1.3(18) Open records.** Except as provided in Iowa Code sections 68A.7 and 17A.2(7), all public records of the department are available for public inspection during business hours. Requests to obtain records may be made either by mail, telephone or in person. Minutes of capitol planning commission meetings, forms and other records routinely requested by the public may be obtained without charge. Other records requiring more than four

copies may be obtained upon payment of fifty cents per page to cover the cost of copying and labor. This charge may be waived in the case of requests made by governmental agencies or indigent persons.

**450—1.4(18) Petitions.**

**1.4(1) Petitions for declaratory rulings.** Petitions shall be sent to the director who shall review and announce a ruling and notify all interested parties, or defer a ruling until a later time.

**1.4(2) Vendor appeals.** Vendor appeals of decisions by the divisions of purchasing and printing shall be filed with the director within three days of decision, exclusive of Saturdays, Sundays and legal holidays. The director may issue a decision on the appeal after a review of the relevant records or after an informal public hearing to allow presentation of facts relating to the appeal. The decision of the director may be appealed to the Iowa executive council within three days of the decision, exclusive of Saturdays, Sundays and legal holidays.

**1.4(3) District court petitions.** Service of petitions for district court review of all department decisions, rulings and actions (where such service is required by Iowa Code chapters 17A and 96) shall be made on the director. The attorney general shall represent the department in all litigation.

This rule is intended to implement Iowa Code sections 18.4 and 18.7.

**450—1.5(18) Smoking.**

**1.5(1) Smoking is prohibited in all capitol complex buildings, except where specifically permitted by the director or by the officer to whom the director has assigned the area.**

**1.5(2) Entrance doors of all capitol complex buildings shall be posted with signs reading, "smoking prohibited by law."**

**1.5(3) Smoking is allowed in offices where the department, agency or agency officer has posted signs reading, "smoking permitted."**

**1.5(4) Smoking is not permitted in lobbies, conference rooms, elevators, restrooms, hallways, stairwells and the Wallace building auditorium, unless specifically allowed by the director.**

**1.5(5) Cafeterias under control of the commission for the blind in the capitol complex shall be divided into smoking and nonsmoking sections and appropriate signs shall be posted.**

This rule is intended to implement Iowa Code section 98A.2(6).

**450—1.6(18) Use of buildings and grounds in the capitol complex.**

**1.6(1) Conference rooms and auditoriums within the capitol complex are for use by state agencies, boards and commissions for authorized purposes only.**

**1.6(2) Arrangements for use of conference rooms and auditoriums by state agencies, boards and commissions may be made by contacting the agency responsible for scheduling the facility. Questions about usage shall be resolved by the chief of general administration.**

**1.6(3) State agencies or the general public may request use of capitol complex grounds or parking lots for public events by letter to the director stating the name of the group, the purpose, the date, the number of participants and the name, address and telephone number of the responsible person and contact person. This shall not be**

## GENERAL SERVICES DEPARTMENT[450] (cont'd)

interpreted as an infringement on the right of assembly and petition guaranteed by Section 20, Article I, The Constitution of Iowa.

**1.6(4)** Any state agency or public group granted permission to use the capitol complex facilities shall be responsible for a thorough cleanup after the event is concluded. All debris and animal waste shall be removed.

**1.6(5)** Consumption of alcoholic beverages is not permitted on the capitol complex.

**1.6(6)** The director may refuse to allow use of the facilities which, in his judgment, would be disruptive of official state business or of the public health and welfare. The director may consider recommendations of capitol security, previous experience with the requesting group or events such as that requested.

**1.6(7)** The director may require, when reasonable, that a damage deposit or bond be posted by any group requesting use of the capitol grounds.

**1.6(8)** State agencies desiring to lease meeting space away from the capitol complex in metropolitan Des Moines shall request in writing approval of the director and shall comply with comptroller's preaudit rules before obligating the state for an expenditure for this purpose.

This rule is intended to implement Iowa Code section 18.10.

**450—1.7(18) Solicitation and sales in state-owned and occupied buildings in metropolitan Des Moines.**

**1.7(1)** Canteens, cafeterias and vending machines under the control of the commission for the blind and gift shops under the control of the state historical department are the only authorized methods of direct sales to employees and visitors in state-owned and occupied buildings in metropolitan Des Moines.

**1.7(2)** Solicitation of state employees for direct sales, within state-owned and occupied buildings is expressly forbidden. Solicitation of state employees for political contributions shall be governed by Iowa Code section 721.3.

**1.7(3)** Vendors seeking to sell supplies, equipment and services to state agencies shall comply with 450—6.2(18), approved vendors, and shall contact the purchasing division to schedule sales calls. This provision is not applicable to agencies otherwise excepted by law or rule.

This rule is intended to implement Iowa Code sections 18.10, 303.9(2), 601C.2(2), and 601C.3.

**ARC 4190**

**HEALTH DATA COMMISSION[465]**

**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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code sections 135.11 and 505.8 as amended by the 1983 Iowa Acts, House File 196, sections 7 and 10, the Health Data Commission gives Notice of Intended Action to create the following new chapters: Chapter 5, "Uniform Hospital Billing Form"; Chapter 6, "Submission of Data"; Chapter 7, "Data Accessibility and Confidentiality".

The 1983 Iowa Acts, House File 196, section 3, subsection 3, paragraph "a" requires the designation and use of a uniform hospital billing form. Chapter 5, "Uniform Hospital Billing Form" designates the uniform hospital billing form to be used in Iowa and describes the process for implementing its use.

1983 Iowa Acts, House File 196, section 3, subsection 3, paragraph "b" requires, in part, that third-party payers of health care costs submit hospital inpatient and outpatient claims data to the commission. Chapter 6, "Submission of Data" identifies the third-party payers subject to this requirement, describes the data to be submitted, and specifies the frequency and form of submissions.

1983 Iowa Acts, House File 196 provides throughout for the protection of patient confidentiality. Chapter 7, "Data Accessibility and Confidentiality" specifies those commission records which are or are not public records pursuant to Iowa Code chapter 68A, delineates the procedure for verification of commission data compilations and underlying data, and provides a mechanism for the request of special compilations.

Any interested person may make written comments on these proposed rules prior to November 23, 1983. Such written materials should be directed to the Hearing Officer, Iowa State Department of Health, Lucas Building, Des Moines, Iowa 50319. Also, a public hearing will be held on Thursday, November 17, 1983, from 1:00 p.m. until 3:30 p.m. in the Insurance Department conference room on the ground floor of the Lucas Building.

Those persons who wish to make oral presentations at the public hearing are encouraged to so notify the presiding officer at 515/281-5737 at least twenty-four hours prior to the public hearing. Persons making timely requests to make oral comments shall be afforded the opportunity to make their comments prior to those who do not file a timely request. Those persons who make oral presentations at the public hearing are also encouraged to submit their remarks in written form.

These rules are intended to implement 1983 Iowa Acts, House File 196 and Iowa Code chapter 68A.

**CHAPTER 5**

**UNIFORM HOSPITAL BILLING FORM**

**465—5.1(70GA, HF196) Definitions.** For purposes of this chapter, the following definitions shall apply:

"Commission" means the Iowa health data commission.

"Hospital" is as defined by Iowa Code section 135B.1(1).

"Third-party payer" includes all licensed insurers, health maintenance organizations, medical and hospital service corporations, self-funded employee health plans, the Iowa department of human services, as administrator of the Medical Assistance Act pursuant to Iowa Code chapter 249A, and all other similar entities obligated by contract to pay for health care services for another party.

"Uniform hospital billing form" means Form UB-82 HCFA-1450, the hospital billing form developed by the National Uniform Billing Committee.

**465—5.2(70GA, HF196) Uniform definitions for the uniform hospital billing form.** Definitions for use of the uniform hospital billing form shall be in accordance with the manual developed by the National Uniform Billing Committee as adapted and finalized by the Iowa Uniform Billing Committee, Iowa Uniform Billing Data Element Specifications. A copy of the manual is available at the commission's offices.



## HEALTH DATA COMMISSION[465] (cont'd)

**465—5.3(70GA, HF196) Hospital use of uniform hospital billing form.** On and after July 1, 1984, all hospitals shall use the uniform hospital billing form (Form UB-82 HCFA-1450) and manual (Iowa Uniform Billing Data Element Specifications) when billing for inpatient or outpatient services.

**465—5.4(70GA, HF196) Third-party payer acceptance of uniform hospital billing form.** On and after July 1, 1984, all third-party payers shall accept the uniform hospital billing form (Form UB-82 HCFA-1450) when processing claims.

These rules are intended to implement 1983 Iowa Acts, House File 196, section 3, subsection 3, paragraph "a".

**CHAPTER 6  
SUBMISSION OF DATA**

**465—6.1(70GA, HF196) Definitions.** For purposes of this chapter, the following definitions shall apply:

"Commission" is as defined by rule 5.1(70GA, HF196).

"Patient identification number" means that number used by a hospital or health care facility for purposes of identifying or locating a patient and the medical records of that patient, but does not include an alphanumeric number based on the information recorded in field number sixty-eight of the uniform hospital billing form which has been encoded by the third-party payer.

"Third-party payer" is as defined by rule 5.1(70GA, HF196).

"Uniform hospital billing form" is as defined by rule 5.1(70GA, HF196).

**465—6.2(70GA, HF196) Identification of third-party payers required to submit data.**

**6.2(1)** Prior to July 1, 1984 the following third-party payers shall submit data as required by this chapter:

- a. Blue Cross of Iowa;
- b. Blue Cross of Western Iowa and South Dakota;
- c. Bankers Life Company;
- d. Iowa department of human services as administrator of the medical assistance Act pursuant to Iowa Code chapter 249A; and
- e. Deere and Company.

**6.2(2)** On and after July 1, 1984 all third-party payers shall submit data as required by this chapter.

**465—6.3(70GA, HF196) Description of data to be submitted.**

**6.3(1)** Prior to July 1, 1984, the data described in subrule 6.3(2) hereunder shall be submitted by the third-party payers designated in subrule 6.2(1), if available.

**6.3(2)** On and after July 1, 1984, the following data compiled from the uniform hospital billing form (UB-82 HCFA-1450) shall be submitted by the primary third-party payer on a per discharge basis:

- a. Patient age from field number twelve of the uniform hospital billing form;
- b. Patient sex from field number thirteen of the uniform hospital billing form;
- c. Patient zip code from field number eleven of the uniform hospital billing form;
- d. Third-party coverage from field number fifty-seven of the uniform hospital billing form;
- e. Date of admission from field number fifteen of the uniform hospital billing form;
- f. Discharge date from field number twenty-two of the uniform hospital billing form;

g. Principal and other diagnoses from field numbers seventy-seven to eighty-one of the uniform hospital billing form;

h. Principal procedure and date from field number eighty-four of the uniform hospital billing form;

i. Other procedures and dates from field numbers eighty-five and eighty-six of the uniform hospital billing form.

j. Total charges and components of those charges from field numbers fifty-three and forty-six to forty-nine of the uniform hospital billing form;

k. Attending physician identification number from field number ninety-two of the uniform hospital billing form; and

l. Hospital identification number from field number five, six, seven, or eight of the uniform hospital billing form, as appropriate to the third-party payer making the submission.

m. Insurance group number from field number seventy of the uniform hospital billing form.

n. An alphanumeric number based on the information recorded in field number sixty-eight of the uniform hospital billing form and which has been encoded by the third-party payer.

**6.3(3)** In the event a third-party payer receives multiple billings for a single episode of illness, the third-party payer shall compile the data required to be submitted by subrules 6.3(1) and 6.3(2) above and submit a single record per patient discharge.

**6.3(4)** In no event, shall third-party payers submit data which identifies a patient by name, address, or patient identification number unless authorized by the patient.

**465—6.4(70GA, HF196) Frequency of data submissions.** Data required to be submitted pursuant to this chapter shall be submitted on a quarterly basis and within forty-five days following the close of the calendar quarter during which the submitting third-party payer provided or paid for the health care services giving rise to the data to be submitted; i.e., data for the calendar quarters ending March 31, June 30, September 30, and December 31 shall be submitted on or before May 15, August 14, November 14, and February 14, respectively.

**465—6.5(70GA, HF196) Form of data submissions.** Data required to be submitted pursuant to this chapter shall be submitted on nine-track unlabeled 1600 BPI (density) tape, if available in that form. Data not available in this form shall be submitted on the following form:

IOWA HEALTH DATA COMMISSION CLAIM ABSTRACT FOR INPATIENT SERVICES (FOR MANUAL SUBMISSION OF DATA ONLY)									
(A) HOSPITAL #	(B) PAYER #	(C) INSURANCE GROUP #	(D) PHYSICIAN #						
(E) INSURED'S # (ENCODED)	(F) AGE	(G) SEX	(H) ADMISSION DATE	(I) DISCHARGE DATE					
(J) PRINCIPAL DIAGNOSIS	(K) 2ND DIAGNOSIS	(L) 3RD DIAGNOSIS	(M) 4TH DIAGNOSIS	(N) 5TH DIAGNOSIS					
(O) PRINCIPAL PROCEDURE	(P) DATE	(Q) 2ND PROCEDURE	(R) 3RD PROCEDURE	(S) TOTAL PRIMITIVE CHARGES					
								(T) PROFESSIONAL CHARGES (IN CLAIM)	
								(U) TOTAL CHARGES	
(IASC 10/83)									

**465—6.6(70GA, HF196) Address for data submissions.** Data required to be submitted pursuant to this chapter shall be sent to the Iowa Health Data Commission, 601 Locust, Suite 330, Des Moines, Iowa 50309.

These rules are intended to implement 1983 Iowa Acts, House File 196, section 3, subsection 3, paragraph "b".

## HEALTH DATA COMMISSION[465] (cont'd)

## CHAPTER 7

## DATA ACCESSIBILITY AND CONFIDENTIALITY

**465—7.1(70GA, HF196) Definitions.** For purposes of this chapter, the following definitions shall apply:

The "Act" means 1983 Iowa Acts, House File 196.

"Commission" means the Iowa health data commission.

"Compilations" means the arrangement of data collected by and furnished to the commission pursuant to the provisions of the Act by the commission through the HPCI (or any other corporation, association or entity acting under agreement with the commission) for release and dissemination to the public.

"HPCI" means the Health Policy Corporation of Iowa, a nonprofit corporation acting pursuant to written agreement with the commission to, among other things, compile, correlate and develop data for release by the commission in accordance with the provisions of the Act.

"Interested persons" means those persons or entities defined by subrule 7.2(1) who may have access to certain data collected by and furnished to the commission under terms and conditions established by the commission.

"Patient identification number" means that number used by a hospital or health care facility for purposes of identifying or locating a patient and the medical records of that patient. "Patient identification number" does not include an encoded identification number used by third-party payers.

**465—7.2(70GA, HF196) Data collected by and furnished to the commission—not a public record.** The data collected by and furnished to the commission (or to the HPCI or any other corporation, association, or entity authorized to act on behalf of the commission) pursuant to section 3 of the Act shall not be public records accessible under Iowa Code chapter 68A but may be released by the commission only to interested persons.

**7.2(1)** An "interested person" shall mean:

a. Providers who have submitted data to the commission, either directly or indirectly through third-party payers, and who request to see and review data for purposes of verifying information in commission compilations pertaining to the provider;

b. Third-party payers who have submitted data to the commission and who request to see and review data for purposes of verifying information in commission compilations pertaining to the third-party payer.

**7.2(2)** Commission approval of all requests by interested persons for data which has been submitted to the commission pursuant to the Act and which is not a public record shall be required, except the commission may authorize the release of data by the HPCI (or any other corporation, association, or entity authorized to act on behalf of the commission) upon written notification to the chairperson of the commission of requests.

**7.2(3)** Providers and third-party payers shall be given an opportunity to review and verify information pertaining to them in compilations prepared by the commission as follows:

a. Data required to be submitted to the commission shall be due no later than on the forty-fifth day after the close of each calendar quarter, i.e., March 31, June 30, September 30 and December 31 in accordance with rules 465—6.3(70GA, HF196) to 6.6(70GA, HF196).

b. Data shall be compiled by the commission through the HPCI (or any other corporation, association, or entity authorized to act on behalf of the commission) as expeditiously as possible.

c. After preparation of compilations by the commission, providers and third-party payers identified in the compilations will be notified in writing that the compilations are available and that they may have an opportunity to review those portions of the compilations specifically relating to them.

d. Provider or third-party payer shall within fifteen days of the date of the commission's written notification file a request in writing with the commission asking for an opportunity to review those portions of the compilations specifically relating to it. The commission shall respond to this request within ten days of its receipt.

e. Following receipt of requested portions of commission compilations, a provider or third-party payer who believes it is necessary to review underlying data collected by and furnished to the commission pursuant to section 3 of the Act as that data relates to those portions of the compilations relating to the provider or third-party payer, the provider or third-party payer shall make a request in writing to the commission to review that data within fifteen days of the commission's release of compilations to the provider or third-party payer.

f. Within fifteen days of the commission's release of the requested portions of the compilations to the provider or third-party payer or within fifteen days of the commission's release of requested data to the provider or third-party payer, the provider or third-party payer shall respond in writing to the commission challenging those portions of the compilations or underlying data pertaining to it which the provider or third-party payer believes is inaccurate along with arguments as to why it is inaccurate and any data which would assist in clarifying the possible inaccuracies.

g. Where a provider challenges underlying data relating to that provider which was furnished to the commission by a third-party payer, the provider shall notify the appropriate third-party payer of its challenge to that data at the same time that the provider notifies the commission of its challenges pursuant to subrule 7.2(3), paragraph "f". The third-party payer may respond to the provider's challenge of underlying data by either submitting comments to the commission in writing before the next scheduled commission meeting or by appearing before the commission at its next scheduled commission meeting.

h. If the commission finds any error, such errors shall be corrected before release of compilations for public use; notification of corrections shall be provided to the appropriate provider or third-party payer by the commission in writing. If the commission finds changes to the report are unnecessary or unwarranted, it shall notify the appropriate provider or third-party payer of this conclusion in writing, including a brief but complete explanation of its determination.

i. An extension of the time limits specified in these subparts may be granted by the chairperson of the commission upon request for good cause shown.

**465—7.3(70GA, HF196) Requests for special compilations.** Any person, organization, governmental agency, or other entity may request from the commission the preparation of compilations of data collected by and furnished to the commission in a specific manner or format not already used by the commission. This part includes requests for subsets of information already available from the commission in compiled form.

**7.3(1)** All requests for compilations of data shall be made in writing to the Health Data Commission, 601

**HEALTH DATA COMMISSION[465] (cont'd)**

Locust, Suite 330, Des Moines, Iowa 50309. The written request shall at least contain the name, address, and telephone number of the requester; a description of the requested compilation of data; a short, plain statement of the reason for the request; and the relationship of the requested compilation to a legitimate purpose. A "legitimate purpose" is a purpose consistent with the intent, policies, and purposes of the Act.

**7.3(2)** The commission shall review each request for compilations and determine whether to approve or deny the request. The commission shall notify the public of requests made for compilations by listing the requester and providing a short description of the request on its official meeting agenda. The approval or denial by the commission of requests for compilations of data shall be within the discretion of the commission. The commission may deny a request for compilation for reasons including, but not limited to, unavailability of data; the requested compilation is already available from the commission or another source; the request is burdensome; and the request is not related to a legitimate purpose.

**7.3(3)** The commission shall notify the requester in writing of its decision. Denial of a request shall include a brief explanation of the reason for the denial.

**7.3(4)** Providers and third-party payers shall be given an opportunity to review and verify information pertaining to them in compilations prepared by the commission pursuant to requests made under this rule in accordance with the procedures detailed in subrule 7.2(3), paragraphs "c" to "g" unless the opportunity for review and verification of that information had been given to the provider or third-party payer at an earlier time.

**7.3(5)** All costs associated with the request for compilations shall be borne by the requester. Upon request, the commission, through the HPCI, shall provide an estimate of the costs of the requested compilations, including staff time, computer time, copying costs, and supplies. All final charges shall be subject to the approval of the commission following recommendation by the HPCI. Moneys received for the cost of compilations prepared by the HPCI on behalf of the commission shall be kept by the HPCI to cover its costs.

**465—7.4(70GA, HF196) Compilations—public.** Compilations prepared for release and dissemination from the data collected by the commission are public records and shall be accessible to the public in accordance with Iowa Code chapter 68A and rules adopted by the commission. Compilations are not available for release and dissemination and are not public records until the verification process has been completed in accordance with subrule 7.2(3).

**7.4(1)** Public records are available for inspection and copying at the Health Data Commission, 601 Locust, Suite 330, Des Moines, Iowa 50309 during regular business hours from 8:00 a.m. to 4:30 p.m. Requests for copies of public records may be made in person, by telephone, or in writing; detailed requests should be made in writing. Copying costs shall be borne by the requester. Costs shall be determined by the commission upon the advice and recommendation of HPCI. Moneys received for copying done by HPCI on behalf of the commission shall be kept by HPCI to cover its costs.

**7.4(2)** Compilations of data prepared by the commission for dissemination shall not contain the patient identification number or any other number developed by the commission to access patient identifying information received by the commission pursuant to section 3 of the Act.

**465—7.5(70GA, HF196) Release of information—confidentiality—civil and criminal liability.**

**7.5(1)** In the collection, compilation, and dissemination of data by the commission (or the HPCI or any other corporation, association, or entity authorized to act on behalf of the commission), patient confidentiality shall be protected.

**7.5(2)** Release of information to the commission—lawful. Notwithstanding Iowa Code sections 68A.7(2), 135.12, 217.30, or any other statute, it is lawful to provide the information required pursuant to section 3 of the Act as follows:

a. From hospitals, third-party payers, and other persons to the commissioners or departments of health, human services, or insurance, or to the commission directly;

b. From the commissioners or departments of health, human services, or insurance to the commission;

c. From the commission to the HPCI or any other corporation, association, or entity under agreement with the commission in accordance with the provisions of the Act; and

d. From the commission to interested persons under definitions and conditions established by the commission by rule.

**7.5(3)** Information prohibited from release—criminal liability. Information otherwise lawfully released to the commission or to the commissioners or departments of health, human services, or insurance pursuant to section 3 of the Act shall not identify a patient by name, address, or patient identification number unless authorized by the patient. Violation of this paragraph is a serious misdemeanor.

**7.5(4)** Confidential information received by the commission. In the event that data received by the commission does contain information which identifies a patient by name, address, or patient identification number, that information shall be immediately expunged by the commission from the data and shall not, unless authorized by the patient, be released to any other person or entity.

**7.5(5)** Release of information to HPCI or other entity. The commission may release information requested and received by it to the HPCI or to any other corporation, association, or entity under agreement with the commission pursuant to the provisions of the Act, or the commission may authorize the HPCI or other such corporation, association, or entity to receive information on its behalf. HPCI or any other corporation, association or entity, or any of their respective agents and employees, are bound by the confidentiality provisions of the Act in the same manner in which the commission is bound and shall not release information received from or on behalf of the commission except as authorized by the commission and in accordance with commission rules.

**7.5(6)** Release of data—civil liability. A cause of action in the nature of defamation, invasion of privacy, or negligence shall not arise against a person for disclosing information to the commission or to the departments of health, human services, or insurance in accordance with section 3 of the Act. However, a person shall not be immune from liability for disclosing or furnishing false information with malice or willful intent to injure a person.

These rules are intended to implement 1983 Iowa Acts, House File 196, sections 4 and 5.

**ARC 4200**  
**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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of the Iowa Code section 135.11(7), the Iowa State Department of Health hereby gives Notice of Intended Action to amend Chapter 25 "State Plumbing Code", Iowa Administrative Code.

These rules address clarification and differences which the Iowa State Plumbing Code Committee desires to be part of the national standards code adopted by reference previously. The main concern being in the area of the utilization of plastic piping.

A public hearing will be held November 15, 1983 at the Lucas State Office Building, Third Floor Conference Room, Des Moines, Iowa at 1:00 p.m.

Written comment will be accepted until November 15, 1983. Comments should be addressed to Mark W. Wheeler, Hearing Officer, Iowa State Department of Health, Lucas State Office Building, Third Floor, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code section 135.11(7).

ITEM 1. Rule 25.1(135), line 2, is amended to read as follows:

Add the words "and Appendix D" following the words "chapters 1 to 13." Delete the date "1979" and add the date "1982" in its place.

ITEM 2. Add new 25.2(135)"a".

a. Section 103. Add the following definitions:

"Building storm drain", a building (house) storm drain is a building drain used for conveying rain water, surface water, ground water, subsurface water, or other similar discharge to a building storm sewer or a combined building sewer extending to a point not less than three feet outside the building wall.

"Building storm sewer", a building (house) storm sewer is the extension from the building storm drain to the public storm sewer, combined sewer, or other point of disposal.

ITEM 3. Add new 25.2"b".

b. Section 120. Add the following definitions:

"Storm sewer" a storm sewer is a sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes, exclusive of sewage and industrial waste.

"Subsoil drain", on a subsoil drain is a drain which receives only subsurface or seepage water and conveys it to a place of disposal.

ITEM 4. Revise former 25.2"a" to read 25.2"c".

ITEM 5. Add new 25.2"d".

d. Section 203. Revise subsections (a), (b), and (d) to read as follows:

(a) Copper tube for underground drainage and vent piping shall have weight of not less than that of copper drainage tube Type L.

(b) Copper tube for above ground drainage and vent piping shall have weight of not less than that of copper drainage tubing Type M. Exception: Type DWV may be used in one-and two-family dwellings.

(d) Copper tube for water piping shall have a weight of not less than Type M. Exception: Underground water piping shall be a weight not less than Type K copper tubing.

ITEM 6. Revise former 25.2"b" and "c" to read "e" and "f" respectively.

ITEM 7. Revise former 25.2"d" to read 25.2"g".

Revise subsection 401(a) (2) under 25.2"g" to read as follows:

401(a)(2)(c) Installations shall not be made in any space where the surrounding temperature will exceed 140°F, or in construction or any space where combustible materials are prohibited by any applicable building code or fire regulation, or in any licensed institutional occupancy except where special conditions require other than metal pipe, i.e., in acid waste or de-ionized water systems, plastic pipe, and other materials may be approved by the administrative authority.

Note: Installation of ABS and PVC beyond the limits of (a) may be approved by the administrative authority for a particular case provided it is certified and warranted by a professional engineer or architect.

ITEM 8. Add new 25.2"h" as follows:

h. Section 407. Grade of horizontal drainage pipe:

Delete the following phrase at the end of the section: when first approved by the administrative authority.

Add the following sentence at the end of the section:

Slopes of less than one-eighth of an inch per foot in piping four inches or larger in diameter may be approved by the administrative authority.

ITEM 9. Revise former 25.2"e" to read 25.2"i" and add new paragraph as follows:

Add the following at the end of subsection 409(j):

Exception: In single-family dwellings, sumps to which no fixtures except one floor drain are connected and which receive only laundry wastes or basement drainage need not be airtight or be vented.

ITEM 10. Revise former 25.2"f" to read 25.2"j".

ITEM 11. Revise former 25.2"g" to read 25.2"k" and add new paragraph as follows:

Add new subsection 502(c) as follows:

(c) In single-and-two family dwellings, no vent will be required on a two-inch basement P trap, provided the drain branches into a properly vented house drain or branch, three inches or larger, on the sewer side at a distance of five feet or more from the base of the stack and the branch to such P trap is not more than eight feet in length. In buildings of one interval, where only a lavatory sink or a urinal empties into the stack, the five-foot distance from the base of the stack does not apply.

ITEM 12. Revise former 25.2"h" to read 25.2"e".

l. Revise subsection 503 a (2)(c) in its entirety to read as follows:

(c) Installations shall not be made in any space where the surrounding temperature will exceed 140°F, or in construction or any space where combustible materials are prohibited by any applicable building code or fire regulation, or in any licensed institutional occupancy except where special conditions require other than metal

## HEALTH DEPARTMENT[470] (cont'd)

pipe, i.e., in acid waste or de-ionized water systems, plastic pipe and other materials may be approved by the administrative authority.

Note: Installation of ABS and PVC beyond the limits of (a) may be approved by the administrative authority for a particular case provided it is certified and warranted by a professional engineer or architect.

ITEM 13. Revise former 25.2"i" and "j" to read 25.2"m" and "n" respectively.

ITEM 14. Revise former 25.2"k" in its entirety to read as follows:

o. Revise subsection 608(c) in its entirety to read as follows:

(c) No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air-gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air-gaps shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher.

ITEM 15. Revise former 25.2"l" to read 25.2"p".

p. Revise subsections 613(d)(5) to read as follows:

(5) Basement closets. Basement closets or floor drains in one- and two-family dwellings may be vented by the waste line from a first floor sink or lavatory having a one and one-half inch waste and vent pipe.

ITEM 16. Revise former 25.2"m" to read 25.2"q".

ITEM 17. Add new 25.2"r" as follows:

r. Revise subsection 909(e)(2) as follows:

Add the following sentence to the end of the first paragraph:

Shower subpans or linings constructed of asphalt impregnated roofing felt shall not be permitted.

Delete the entire third paragraph to the asterisked footnote of this subsection.

ITEM 18. Add new 25.2"s" as follows:

s. Delete the entire third paragraph in subsection 1003(k) captioned exception.

ITEM 19. Revise former 25.2"n" to read 25.2"t".

t. Add a third paragraph to subsection 1004(a) as follows:

Plastic pipe installation shall not be made in any construction or space where combustible materials are prohibited by any applicable building code or regulation, or in any licensed institutional occupancy except where special conditions require other than metal pipe, i.e., in acid waste or de-ionized water systems, plastic pipe and other materials may be approved by the administrative authority. Note: Application of ABS and PVC beyond the limits of this code may be approved by the administrative authority for a particular case provided it is certified and warranted by a professional engineer or architect.

ITEM 20. Add new 25.2"u" as follows:

u. Add the following to the end of subsection 1008(a): All water service yard piping shall, whenever feasible, be no less than five feet below the surface of the ground.

ITEM 21. Revise former 25.2"o" to read 25.2"v".

ITEM 22. Add new 25.2"w" as follows:

w. Section 1106. Grade, support and protection of building sewers.

Delete the following phrase at the end of subsection (a): when approved by the administrative authority.

Add the following sentence to the end of subsection (a): Slopes of less than 1/8 of an inch per foot in pipes or piping four inches or more in diameter may be approved by the administrative authority.

ITEM 23. Add new 25.2"x" as follows:

x. Section 1107. Cleanouts.

Add a new subsection (g) as follows:

(g) In addition, a cleanout shall be provided in each vertical waste or soil stack at a point at least 42 inches above the base of the stack.

ITEM 24. Add new 25.2"y" as follows:

y. Section 1305. Gas-fired water heater approval requirements.

Add the following to the end of subsection (c):

The over-temperature safety protection may be a combination pressure and temperature relief valve. The drain pipe from such valve shall have an indirect connection into a plumbing fixture, floor drain, sump pit, or other approved point of discharge or as required by Section 1007(e).

ITEM 25. Add new 25.2"z" as follows:

z. Section 1306. Oil burning and other water heaters. Add the following to the end of subsection (b). The over-temperature safety protection may be a combination pressure and temperature relief valve. The drain pipe from such valve shall have an indirect connection into a plumbing fixture, floor drain, sump pit, or other approved point of discharge or as required by Section 1007(e).

ITEM 26. Amend former 25.2"p" to read 25.2"aa" and amend 25.2"aa" by adding the words "Except as provided in 25.2"ab" at the beginning of the first sentence.

ITEM 27. Add new 25.2"ab" as follows:

ab. Appendix D is included herewith as a subrule. The second paragraph of subsection D1(a) is revised to read as follows:

ABS and PVC DWV piping installation shall not be used in any space where the surrounding temperature will exceed 140°F, or in construction or any space where combustible materials are prohibited by any applicable building code or fire regulation, or in any licensed institutional occupancy.

## ARC 4201

## 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 Iowa Code §17A.4(1)"b".

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

Pursuant to authority of Iowa Code sections 135.11(7) and 135D.16, the Iowa State Department of Health hereby gives Notice of Intended Action to amend Chapter 71, "Licensing of Mobile Home Parks", Iowa Administrative Code.

**HEALTH DEPARTMENT[470] (cont'd)**

These amendments establish and clarify the responsibilities of mobile home park management regarding resident safety in respect to hidden hazards.

A public hearing will be held on November 15, 1983, at 10:00 a.m. in the Lucas State Office Building, third floor conference room, Des Moines, Iowa.

Written comments will be accepted until November 15, 1983. All submissions should be addressed to Mark W. Wheeler, Hearing Officer, Iowa State Department of Health, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code section 135D.16.

**ITEM 1.** Amend rule 71.6(135D) by adding the following subrule:

**71.6(6)** Mobile home park management is responsible for protecting residents from hazards associated with damaging buried electrical or gas lines. Appropriate steps must be taken to assure that park residents are aware of these hazards and the means of avoiding these hazards.

a. The mobile home park must have health and safety rules which instruct each tenant to notify the park management of any planned excavation or installation of below-ground facilities such as gas, electric, water, or sewer lines; mobile home tie downs; or barrier posts.

b. The exact location of buried gas or electric lines must be provided to all tenants prior to any excavation.

**ITEM 2.** Subrule 71.7(2) is rescinded and the following inserted:

**71.7(2)** All sites must be free from hazards.

**ITEM 3.** Amend rule 71.12(135D) to read as follows:

**470—71.12(135D) Gas and fuel systems.** The gas and fuel systems shall be installed and operated so as not to create a hazard. Obvious hazards, such as unsecured gas bottles and unprotected gas meters, are to be eliminated. *See 71.6(6) for action necessary to avoid potential hazards associated with buried gas or fuel lines.*

**ITEM 4.** Amend rule 71.13(135D), first paragraph, to read as follows:

**470—71.13(135D) Electrical system.** The electrical system shall be installed and operated so as not to create a hazard. *See 71.6(6) for action necessary to avoid potential hazards associated with buried electrical lines.*

and adjust fees to pay for the cost of licensing as required by Iowa Code section 147.80.

Any interested person may make written comments concerning the proposed rules prior to 4:30 p.m., November 16, 1983, addressed to Peter J. Fox, Hearing and Compliance Officer, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rules are intended to implement Iowa Code sections 147.76 and 147.80.

**ITEM 1.** Subrule **146.1(2)** is amended by adding the following in alphabetical order:

Acquired immune deficiency syndrome (AIDS).

**ITEM 2.** Rule 470—147.98(147) is rescinded and the following adopted in lieu thereof:

**470—147.98(147) Fees.** All fees are nonrefundable.

**147.98(1)** The fee for a funeral director's license issued upon the basis of examination is based upon whether the national board examination from the conference of funeral services examining boards has been passed by the applicant in whole or in part.

a. The fee for a funeral director's license if it is necessary for the applicant to take all of the national board examination is one hundred dollars.

b. The fee for a funeral director's license if the applicant has previously failed one or two subjects of the national board examination and the applicant will retake the subjects failed is seventy-five dollars.

c. The fee for a funeral director's license if the applicant has previously passed the entire national board examination is fifty dollars.

**147.98(2)** Fee for a funeral director's license issued under endorsement is one hundred dollars.

**147.98(3)** Fee for renewal of a funeral director's license for a biennial period is one hundred dollars.

**147.98(4)** Penalty fee for failure to renew a funeral license within thirty days following its expiration is fifty dollars.

**147.98(5)** Penalty fee for failure to obtain the required continuing education within the compliance period is fifty dollars.

**147.98(6)** Fee for a student registration is twenty-five dollars.

**147.98(7)** Fee for a certified statement that a licensee is licensed in this state is ten dollars.

**147.98(8)** Fee for a duplicate license if the original is stolen or lost is ten dollars.

**ARC 4195****HEALTH DEPARTMENT[470]****BOARD OF MORTUARY SCIENCE EXAMINERS****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code sections 147.76 and 147.80, the Board of Mortuary Science Examiners gives Notice of Intended Action to amend chapters 146 and 147 of the Iowa Administrative Code. The proposed rules were adopted September 1, 1983.

The amendments add Acquired Immune Deficiency Syndrome (AIDS) to the list of communicable diseases

**ARC 4206****HUMAN SERVICES  
DEPARTMENT[498]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of 1983 Iowa Acts, House File 641, the Department of Human Services proposes the following rules relating to the unemployed parent workfare program (chapter 59).

**HUMAN SERVICES DEPARTMENT[498] (cont'd)**

These rules implement a workfare program for the principal wage earner in aid to dependent children unemployed parent cases.

These rules were filed under emergency provisions and published in the IAB July 6, 1983 as ARC 3868. As a result of public comment several changes have been proposed in program requirements as follows:

1. Require counties or agencies to report to the department the fees collected from work sites for worker's compensation insurance.

2. Assure that participants shall receive a copy of IAC 498—chapter 59 at the time of registration.

3. Prohibit the participant from bearing any costs related to participation in the program.

4. Establish a procedure for investigating alleged complaints which do not pertain to issues of health, safety or displacement.

5. Require the posting of instructions to the public on how to register a complaint when it is thought a participant is displacing a regular worker.

6. Include emotional capability as a criteria for suitable assignment to a work site.

7. Provide for reassignment of participants unable to adequately perform work expected.

8. Assign the department the responsibility for administering self-developed work sites.

9. Assure that the department will provide participants information regarding development of work sites.

10. Allow participants to transfer to self-developed work sites at any time.

11. Establish criteria within which a registrant may refuse a placement.

12. Establish good cause whereby a registrant may refuse to participate in the program.

13. Allow participant to be late or absent from work when required to care for children when spouse is job searching.

14. Permit verification from proper sources regarding good cause for any absence.

15. Provide participants a means to resolve complaints regarding noncompliance with the rules of the program without jeopardizing ADC eligibility.

Consideration will be given to written data, views or arguments thereto, received by the Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before November 16, 1983.

Oral presentations may be made by appearing at one of the following meetings. Written comments will also be accepted at that time.

Burlington — November 22, 1983 at 10:00 a.m.  
Iowa Department of Human Services  
409 North 4th  
Burlington, Iowa 52601

Carroll — November 18, 1983 at 10:00 a.m.  
Iowa Public Service Company  
Community Room 804  
North Main  
Carroll, Iowa 51401

Cedar Rapids — November 18, 1983 at 1:00 p.m.  
United Way Building  
712 Third Avenue S.E.  
Cedar Rapids, Iowa 52402

Council Bluffs — November 22, 1983 at 1:00 p.m.  
Iowa Department of Human Services  
Conference Room A  
12 Scott Street  
Council Bluffs, Iowa 51501

Creston — November 23, 1983 at 9:30 a.m.  
Court House  
Creston, Iowa 50801

Davenport — November 21, 1983 at 10:00 a.m.  
Iowa Department of Human Services  
Bicentennial Building  
428 Western Avenue  
5th Floor Conference Room  
Davenport, Iowa 52801

Decorah — November 17, 1983 at 10:00 a.m.  
Iowa Department of Human Services  
Winneshiek County Office  
1111 Paine Street  
Decorah, Iowa 52101

Des Moines — November 17, 1983 at 1:30 p.m.  
Iowa Department of Human Services  
Des Moines District Office  
Conference Room  
3619½ Douglas  
Des Moines, Iowa 50306

Dubuque — November 17, 1983 at 10:00 a.m.  
Iowa Department of Human Services  
Dubuque County  
Town Clock Plaza, Nesler Centre  
Suite 360, Third Floor Conference Room  
Dubuque, Iowa 52001

Fort Dodge — November 22, 1983 at 2:00 p.m.  
Iowa Department of Human Services  
Webster County Office  
23 North Seventh Street  
Fort Dodge, Iowa 50501

Marshalltown — November 17, 1983 at 1:00 p.m.  
Marshalltown Annex  
206 West State Street  
Marshalltown, Iowa 50158

Mason City — November 21, 1983 at 2:00 p.m.  
Iowa Department of Human Services  
Mason City District Office  
1531 South Monroe  
Mason City, Iowa 50401

Ottumwa — November 18, 1983 at 1:00 p.m.  
Ottumwa Public Library  
129 North Court  
Ottumwa, Iowa 52501

Sioux City — November 17, 1983 at 7:00 p.m.  
2nd Floor Conference Room  
808-5th Street  
Sioux City, Iowa 51101

Spencer — November 22, 1983 at 7:00 p.m.  
Bethany Lutheran Church  
15 West 14th Street  
Spencer, Iowa 51301

Waterloo — November 17, 1983 at 3:00 p.m.  
Second Floor Conference Room  
Black Hawk County Department of Human Services  
KWWL Building  
500 East Fourth Street  
Waterloo, Iowa 50703

**HUMAN SERVICES DEPARTMENT**[498] (*cont'd*)

These rules are intended to implement 1983 Iowa Acts, House File 641, section 3, subsection (1) paragraph "d".

Rescind 498—chapter 59 and insert in lieu thereof the following:

**CHAPTER 59**

**UNEMPLOYED PARENT WORKFARE PROGRAM**

**498—59.1(70GA, HF641) Contracts.** The department of human services (department) shall establish a community work experience program (CWEP) for ADC unemployed parents by contracting with counties (county) or local public or nonprofit organizations (hereto referred to as agency) designated by both the county board of supervisors and the department of human services to provide work sites and assign persons referred by the department to appropriate work sites: The Community Work Experience Contract, PA-6104-5, shall be used. Designation of Local Agency Agreement, PA-3166-5, shall also be used when a local agency is designated by the department and a county.

**59.1(1)** A contracting county or agency may obtain work sites for participants from other public and nonprofit organizations within the county. These organizations shall supervise participants and report immediately to the county or agency matters that the county or agency is required to report to the department. The county or agency shall have no further responsibility for participants assigned to these organizations other than provided in these rules.

**59.1(2)** Participants may be placed at work sites with religious institutions only when work performed is nonsectarian and not in support of sectarian activities. Participants may not be used to replace regular employees in the performance of nonsectarian work for the purpose of enabling regular employees to engage in sectarian activities.

**59.1(3)** The county, or the agency may charge the entity responsible for a work site a reasonable fee to cover the cost of worker's compensation liability insurance provided by or through the county or agency, which is not reimbursed through federal participation, and the administrative cost in providing the insurance, to program participants employed at the work site. However, the fee shall be the actual cost of coverage and administration, not to exceed \$.55 per hour per participant. The county or agency shall report the fees it has received from work sites for worker's compensation insurance at the time that it submits its quarterly billing to the department, as provided in 498—59.8(70GA, HF641).

**498—59.2(70GA, HF641) Registration.** In counties with an operating unemployed parent community work experience program, all principal wage earners in unemployed parent cases shall be required to register for and participate in the community work experience program (CWEP) as a condition of receiving aid to dependent children assistance unless they qualify for exemption. Refusal to register or participate shall make the entire family ineligible for assistance as follows:

**59.2(1)** Families of principal wage earners who refuse to register shall remain ineligible for assistance until registration occurs.

**59.2(2)** Families of principal wage earners who refuse to participate shall be ineligible for assistance for three months from the first time refusal occurs. A subsequent refusal shall render the family ineligible for six months for each refusal.

**498—59.3(70GA, HF641) Exemptions.** Unemployed parent recipients shall be exempt if:

**59.3(1)** A recipient is not the principal wage earner.

**59.3(2)** The principal wage earner is employed in nonsubsidized employment for eighty or more hours per month. For self-employed persons, hours shall be determined by dividing gross earnings by the prevailing state or federal minimum wage (whichever is higher).

**59.3(3)** An unemployed parent family receives a zero grant because the family is eligible for less than ten dollars per month.

**59.3(4)** The principal wage earner is participating in a department approved training program as defined in 498—42.1(239), excluding the work incentive program.

**498—59.4(70GA, HF641) Work incentive program projects.** In work incentive program project areas, principal wage earners shall be exempt from CWEP participation if they are registered for and actively participating in WIN approved vocational classroom training programs or work experience assignments. All other principal wage earners shall be required to register for and participate in CWEP as well as accept work incentive program job search assignments. Reduced CWEP participation shall be allowed when work incentive program job search assignments require more than one day of participation.

**498—59.5(70GA, HF641) Department responsibilities.**

**59.5(1)** Income maintenance staff of the department shall register principal wage earners for CWEP and shall refer registrants to the county or agency using CWEP Registration, PA-2374-5, which shall include the following information:

1. Identifying information consisting of participant name, address, telephone number and social security number.

2. The maximum weekly hours that a participant can be assigned to a work site.

3. A self-assessment including health, available transportation, criminal history, education, work history, and suitable types of work assignments as identified by the registrant.

**59.5(2)** At the time of registration, registrants shall be required to review and sign Your Rights and Responsibilities, PA-2237-5, to acknowledge that a complete explanation of the CWEP program has been provided. Registrants shall also be provided a copy of the rules governing the community work program.

**59.5(3)** The department shall determine weekly hours of participation by dividing the aid to dependent children grant received (excluding special need allowances) by the prevailing state or federal minimum wage (whichever is higher) and dividing the figure obtained by 4.3 with the resulting number rounded down to the nearest whole number.

**59.5(4)** The department shall issue each participant an allowance of \$25.00 per month as compensation for transportation and parking fees. When a participant documents costs for transportation and parking in excess of \$25.00 per month, a reduction in required hours or days of participation or work site reassignment must occur to reduce costs unless either the government entity or nonprofit agency agrees to pay the excess expenses. Costs for travel by private automobile shall be calculated at \$0.18 per mile.

Clothing, shoes, gloves, and health and safety equipment necessary for the performance of work at a work site



**HUMAN SERVICES DEPARTMENT[498] (cont'd)**

under the program, which the participant does not already possess, shall be provided to the participant by the entity responsible for the work site. The items shall remain the property of the entity responsible for the work site, unless the participant and the entity agree to a different arrangement. However, under no circumstances shall a participant be required to use their assistance or their income or resources to pay any portion of their participation costs.

**59.5(5)** Job search activities, which shall be separate from CWEP participation requirements, shall be prescribed and administered by the department as specified in 42.4(4). Participants shall be allowed time away from CWEP assignments to engage in scheduled job interviews. When possible, the participant shall notify the work site supervisor at least twenty-four hours in advance of the name and address of the employer and the time that the participant will be away from the work site participating in an interview. If twenty-four-hour notice is not possible, notice must be given as soon as possible and prior to the interview. Time spent in scheduled job interviews which result in absence from the work site shall be counted as part of the required weekly hours of CWEP participation.

**498—59.6(70GA, HF641) County or agency responsibilities.**

**59.6(1)** The county or agency shall make a reasonable effort to establish a sufficient number of work sites to accommodate all registrants referred by the department. When a work site is established in another public or non-profit organization, that organization shall adhere to these rules and be responsible for the direct supervision of any participant assigned to the organization. The county or agency shall secure a written assurance from the organization that it will adhere to these rules. All complaints of noncompliance other than health and safety or displacement issues will be investigated by the county or agency and the Department of Human Services CWEP coordinator. Work sites shall meet the following criteria:

a. Work sites shall provide services which are of some benefit to the public.

b. Work sites shall be limited to public and nonprofit agencies.

c. Work sites established shall not result in displacement of current employees and shall not be used in place of hiring staff for established vacant positions.

d. Work sites shall not be related to political, electoral, or partisan activities.

e. Work sites shall not be developed in response to or in any way be associated with the existence of a strike, lockout, or other bona fide labor dispute.

f. Work sites shall not violate an existing labor agreement between employees and employer.

g. Work sites shall comply with all applicable federal and state health and safety standards.

h. A grievance procedure shall be provided for public complaints regarding the displacement of regular workers with participants. Upon the filing of the complaint, the county or agency shall establish a local impartial board consisting of representatives of the legal profession, organized labor, private industry, and the department to hear and resolve the complaints. All work sites shall post in a conspicuous location a written statement describing the grievance procedure and the public's right to file complaints alleging the displacement of regular paid workers. The grievance board shall have access to all documents of the work site needed in their investigation.

**59.6(2)** The agency shall assign participants to work sites according to the following criteria:

a. The prior training, proficiency, experience and skills of a participant as indicated on CWEP Registration, PA-2374-5, shall be matched to the extent possible with job requirements of available work sites.

b. Participants shall be assigned to work the number of hours per week specified by the department if a work site is available. Maximum CWEP participation is limited to thirty-two hours per week plus an additional eight hours to engage in job search activities. The county or agency is authorized to reduce the number of CWEP hours when the hours required by a work site are fewer than those specified by the department unless the department notifies the county or the agency to the contrary.

c. A participant will not be assigned to a work site for more than eight hours during any one day unless the participant agrees. These hours need not be consecutive but this work period can be separated by only one break period. A participant shall not be required to work more than four days per week.

d. Work site assignments shall not be scheduled between the hours of 6 p.m. and 7 a.m. unless the participant voluntarily agrees to work between those hours. A participant shall be required to work only during those hours normally worked by regular employees at the work site.

e. A participant may be assigned to a work site any day of the week including Saturday and Sunday unless the participant has a bona fide objection to working on a particular day based on religious beliefs. A participant shall not be required to work on legal federal holidays or state public holidays unless agreed to by the participant.

f. Participants shall not be required to accept assignments where required travel from home to the work site exceeds one hour each way.

g. Work site assignments shall not exceed the recipient's physical, emotional, or intellectual capabilities as indicated on the participant's CWEP Registration, PA-2374-5. If a participant's performance is unacceptable due to the participant's inability to perform required work, the county or agency shall find another placement within the participant's physical, emotional and intellectual capabilities.

h. Registrants shall be assigned to work sites according to when they registered. The county or agency shall maintain a chronological list of registrants according to date of registration. The names of persons registering on the same day shall be placed on the list in alphabetical order by last name. When an available work site is not suitable for the registrant at the top of the list, the county or agency shall review other registrants in listed order until an appropriate registrant is found.

i. The work schedule of a participating unemployed parent who is employed in or obtains unsubsidized employment shall be arranged so that the work schedule does not interfere with the participant's ability to retain the unsubsidized employment.

j. The department shall allow fourteen calendar days beginning with the date of registration for the registrant to develop a community service work site. A work site must be a nonprofit organization which agrees to serve as a work site for the department and agrees to meet all program requirements as specified in IAC 498-chapter 59. The work site must agree to provide worker's compensation liability insurance for the participant.

(1) The department shall provide written information which will assist the registrant in identifying allowable

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

work sites and will enable a registrant to inform a potential work site of program requirements.

(2) The registrant will be given a CWEP Work Site Agreement form, PA-6105-5, to be signed by the work site when the work site agrees to participate. The registrant will return the signed form to the department.

(3) Registrants who do not develop a work site and return a signed agreement form within fourteen days shall be referred to and be required to accept a placement by the county or agency.

(4) Participants shall be allowed to transfer to self-developed work sites at any time, subject to the approval of the department.

(5) Participants must give current work sites and the CWEP agency and the department fourteen calendar days' notice prior to transfer.

k. Participants shall have good cause for refusing a placement if any of the following factors exist:

(1) Risk to the health and safety or contrary to religious or ethical beliefs of the participant.

(2) The work assignment is beyond the physical or mental capability of the participant as documented by medical evidence or other reliable source.

(3) Unreasonable transportation requirement to attend the work site as specified in 59.6(2)"f".

(4) Placement would interfere with a participant's unsubsidized employment as provided in 59.6(2)"i".

(5) The work site violates any of the criteria for work sites as specified in 59.6(1).

**59.6(3)** The county or agency shall use its best efforts to place all registrants in work sites. However, the county or agency shall not be responsible for placing every registrant if a sufficient number of work sites do not exist.

**59.6(4)** The county or agency may require participants to obtain a physical examination. Any cost of the examination shall be paid by the medical assistance program.

**59.6(5)** The CWEP coordinator in the county or agency shall notify the department no later than one working day after receipt of information that a participant begins or terminates a work site assignment or refuses to participate without good cause as defined in 59.6(2) and 59.6(6) using CWEP Participation Status Report, PA-4107-5. Refusal occurs when:

a. A participant refuses to appear for a schedule appointment.

b. A participant refuses a work assignment.

c. A participant has more than one unexcused absence.

d. A participant is more than fifteen minutes late for work on three occasions within a three-month period.

e. A participant appears at the work site under the influence of alcohol or drugs.

f. A participant's performance continues to be unsatisfactory after being notified by the county or agency of unacceptable performance and what is necessary to make performance acceptable. This notification may be oral, but shall be documented to the participant in writing.

g. A participant physically threatens staff or co-workers. A physical threat is defined as:

(1) Having a dangerous weapon in one's possession and either threatening with or using the weapon.

(2) Committing assault.

h. A participant continues an offense after being notified that the participant's behavior is disruptive and in what manner it is disruptive.

i. A participant refuses to complete a physical examination.

**59.6(6)** The county or agency shall allow absence, lateness, and missed appointments due to illness, family emergency including need for emergency child care, bad weather, lack of transportation, or job search activities of the participant or the participant's spouse. The department, county or agency may require written documentation signed by a health practitioner licensed in Iowa to verify when illness is habitual or a participant is ill more than three consecutive days. The department, county or agency may require verification of family emergency, lack of transportation or job search activities. It is the responsibility of the participant to notify the work site supervisor as soon as possible that one of these events has occurred and the expected duration. If the duration is more than five consecutive days, the county or agency shall notify the department.

**59.6(7)** When the county or agency believes that a participant is in violation of a community work experience requirement as specified in these rules, the county or agency shall notify the department in writing, with a copy to the participant. The notice shall include the name of the participant, the alleged violation, a summary of the facts including dates and times the violations occurred, and the name and address of the individual(s) with knowledge of the facts. After the county or agency has issued this report, it shall instruct the participant not to appear at the work site.

a. The participant and the participant's family may continue to receive benefits pending further action by the department according to 498—chapter 7. Final determination of whether a participant has refused to participate and determination of continued eligibility for aid to dependent children assistance rests with the department.

b. Participants shall have the right to file a written appeal at the local department office concerning any alleged violation of CWEP policy as set forth in these administrative rules which is imposed as a condition of participation. The responsible work site, county or agency shall provide the participant with written documentation which specifies the participation requirement in dispute. Hearings shall be conducted in a manner consistent with the provisions of 498—chapter 7.

c. Within three working days of filing an appeal, the participant shall participate in a conference with the local department CWEP coordinator for a review of the dispute. Pending the hearing decision, the participant must cooperate by accepting the work assignment unless there is danger to health and safety.

d. All other disputes that are not conditions of participation shall be resolved locally.

**59.6(8)** The county, agency or organization shall participate, to the extent possible, in fair hearings which shall be conducted by the department when a participant files an appeal.

**59.6(9)** The county or agency shall: Provide workers' compensation insurance through an insurance company licensed to do business in the state of Iowa that will provide and pay for the cost of defense (including attorney fees and suit costs) of claims filed or brought by the participants in the community work experience program for unemployed parents under Iowa Code chapters 85, 85A, 85B, and 86, or for the employer's liability to an employee for bodily injury arising out of and in the course of the individual's participation at a designated work site and to pay any moneys due on behalf of or to any participant including settlements and awards plus any interest under these laws.

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

a. The policy (coverages A and B) will name the state of Iowa, the Iowa department of human services and any county, city, agency, nonprofit organization, and other entity participating in the community work experience program for unemployed parents as named insured. The insurer shall endorse upon the policy that it will not pose as a defense to any workers' compensation claim brought by a program participant that the program participant is not an "employee" within the meaning of the policy or the Iowa workers' compensation laws.

b. The state of Iowa, Iowa department of human services and each county, agency and organization shall be responsible for any other legal liability imposed upon it by law or to insure itself, with its own funds, against such liability.

c. The department may, with the approval of the insurance commissioner, allow any county or agency to be self-insured if that county or agency will agree to appear, defend, and hold harmless the state of Iowa and the Iowa department of human services from any and all claims including costs and attorney's fees brought by program participants pursuant to the Iowa workers' compensation laws.

**59.6(10)** The county or agency shall safeguard client information in conformance with Iowa Code section 217.30.

**59.6(11)** The county or agency shall maintain all records related to CWEP for three years.

**59.6(12)** The county or agency shall allow federal or state officials access to all CWEP records upon request.

**498—59.7(70GA, HF641) Responsibilities of any organization with a CWEP work site other than the county or agency.** Any organization other than the county or agency shall have the same responsibilities as those in 498—59.6(70GA, HF641) to the county or agency as the county or agency has to the department with the exception of 59.6(9).

**498—59.8(70GA, HF641) Reimbursement.** The county or agency shall receive financial reimbursement at the prevailing federal match rate for CWEP. Reimbursement shall be limited to personnel salaries and fringe benefits, personnel travel, required administrative equipment and supplies, physical facilities, communications including phone service and postage, accounting and auditing services, advertising services and insurance coverage for Iowa workers' compensation. The county or agency shall submit quarterly billings for reimbursement to the department no later than thirty days after the end of the quarter using Report of Local Administrative Expense, AA-4103-0. This billing shall be separate from other billings and include only CWEP related charges.

**59.8(1)** Reimbursement is not available for the following expenses:

a. Capital expenditures, depreciation, or use allowances in connection with CWEP.

b. The cost of making or acquiring materials or equipment in connection with participation in a CWEP project.

c. The cost of direct work site supervision of CWEP participation.

d. Costs associated with the use of any facilities of job service of Iowa used to find employment opportunities for participants.

**59.8(2)** Reserved.

**498—59.9(70GA, HF641) CWEP relationship with job search requirements.** While each program participant is actively and earnestly searching for work each week as directed by the department, the participant shall not be considered to be participating in CWEP and a county, agency, or organization shall bear no liability or responsibility to a program participant or for the participant's actions while engaged in the search for work.

These rules are intended to implement 1983 Iowa Acts, House File 641, section 3, subsection (1), paragraph "d".

**ARC 4208****HUMAN SERVICES  
DEPARTMENT[498]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes amending rules appearing in the IAC relating to general provisions (chapter 130).

These rule amendments correct a form number, clarify the eligibility factors for services, explain what is meant by the term "without regard to income", include the "300 percent group" clients in the eligibility group for services, and delete a rule.

The eligibility factors and without regard to income changes clarify current policy. The 300 percent group changes confer a benefit on clients in that group who may be ineligible using a strict definition of the income maintenance eligibility group.

Consideration will be given to written data, views or arguments thereto, received by the Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before November 16, 1983.

These rules are intended to implement Iowa Code section 234.6.

ITEM 1. Subrule 130.2(1) is amended to read as follows:

**130.2(1)** Application for social services shall be made at the local office of the department of human services on the form Application for Social Services, ~~RS-1120-0~~, ~~SS-1120-0~~, available at the office.

ITEM 2. Subrule 130.3(1) and paragraph 130.3(1)"a" are amended to read as follows:

**130.3(1)** Eligibility for services is based on individual need for services, financial eligibility and service availability in the pre-expenditure report or service availability through other department resources.

*Eligibility factors for services available through the department are individual need for a service and family income except when services are provided without regard to income or when services are directed in a valid court order.*

HUMAN SERVICES DEPARTMENT[498] (cont'd)

a. Individual need is established when the service to be provided is directed at and will facilitate an individual in reaching or maintaining one of the goals and objectives in 130.7(1). The department shall establish need for service and Except when the court establishes need, the department shall do so in accordance with individual service chapters. The department shall determine the number of units to be provided.

ITEM 3. Subparagraph 130.3(1) "d"(1) is amended to read as follows:

(1) Income maintenance status. They are recipients of aid to dependent children, or their those whose needs were taken into account in determining the needs of aid to dependent children recipients, or they are recipients of supplemental security income or state supplementary assistance, or those in the 300 percent group as defined in IAC 498-75.1(7).

ITEM 4. Subrule 130.3(1) is amended by adding new paragraphs "e" and "f" as follows:

e. Certain services are provided without regard to income which means family income is not considered in determining eligibility. The services provided without regard to income are information and referral, child abuse investigation, child abuse treatment, child abuse prevention services and dependent adult abuse investigation.

f. In certain cases the department shall provide services directed in a valid court order. In these cases the court may determine the need for service and may direct that services are provided without regard to income.

ITEM 5. Subrule 130.3(4) is deleted and reserved.

These rules are intended to implement Iowa Code section 234.6.

NOTICE—INSURANCE

NOTICE OF WORKERS' COMPENSATION PROPOSED RATE FILING

Pursuant to Iowa Code section 516A.6, notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects premium rates for workers' compensation insurance. The filing proposes an average rate decrease of 6.6% in the overall level of premium currently in force in Iowa. The filing also proposes to change the expense constant from \$75 to \$85 per policyholder. To offset the collection of additional expense dollars, manual rates are proposed to decrease by 0.1%. Thus the overall rate level change would be a 6.7% decrease. This change has no effect on the overall premium level requested. It is also proposed that the maximum minimum premium be \$600. Details of the filing may be obtained from the Insurance Department of Iowa.

This rate filing has a proposed effective date of December 1, 1983. An affected workers' compensation policyholder or established organization with one or more workers' compensation policyholders among its members may request a hearing on this filing before the commissioner. Such request must be filed within fifteen days of the date of publication and shall be made to the Insurance Department of Iowa, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319.

ARC 4202

LANDSCAPE ARCHITECTURAL EXAMINERS BOARD[540] 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 Iowa Code §17A.4(1)"b".

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

Pursuant to authority of Iowa Code sections 118A.5 and 17A.3, the Iowa Board of Landscape Architectural Examiners proposes to amend chapters 1 and 2.

The amendments relate to the new address of the agency, the date of the examination, and the fee schedule.

Interested persons may make written suggestions or comments on the proposed amendments by making written submissions to Mr. John M. Roberts, Chairperson, Iowa Board of Landscape Architectural Examiners, 1209 E. Court Avenue, Executive Hills West, Des Moines, Iowa 50319. The submissions must be made no later than November 15, 1983.

ITEM 1. Rule 1.3(118A,17A) is amended as follows:

540-1.3(118A,17A) Headquarters of the board. The official mailing address of the board shall be the Iowa Board of Landscape Architectural Examiners, 1018 Des Moines Street 1209 E. Court Avenue, Executive Hills West, Des Moines, Iowa 50319. The officers shall be free to carry on their duties in such places as may be designated by the board.

ITEM 2. Rule 2.4(118A,17A), first paragraph, is amended as follows:

540-2.4(118A,17A) Examination of applicants. Examinations shall be conducted by the board annually during the month of June and again in December if the number of applicants warrant holding an examination.

ITEM 3. Rule 2.10(118A,17A) is amended as follows:

540-2.10(118A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 118A of the Code, the following fee schedule is adopted:

Examination fee . . . . . \$80.00 to \$125.00 \$150.00 to \$225.00

(Due to fluctuating examination administrative and grading costs, the board will review the anticipated examination costs and establish an appropriate examination fee four months prior to each examination period. The examination fee will not be less than \$80.00 or greater than \$125.00 \$150.00 or greater than \$225.00.)

Exemption filing fees

Table with 2 columns: Fee Item and Amount. Items include Foreign credentials (\$60.00), Certificate of registration fee (\$60.00), Biennial registration renewal fee (\$120.00/\$150.00), Duplicate certificate (\$10.00), Landscape architect in training certificate fee (\$25.00), Annual renewal fee of landscape architect in training certificate (\$5.00).

**ARC 4171****MERIT EMPLOYMENT  
DEPARTMENT [570]****NOTICE OF INTENDED ACTION - HEARING**

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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Merit Employment Department hereby gives Notice of Intended Action to amend Chapter 11, "Separations, Disciplinary Actions and Reduction in Force", Iowa Administrative Code. The substance of this rule was submitted as an emergency adopted and implemented rule, **ARC 4170**, published in the Iowa Administrative Bulletin on October 26, 1983.

The purpose of this notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written suggestions or comments on this proposed rule no later than November 15, 1983, to the Division Manager, Technical Services Division, Iowa Merit Employment Department, Grimes State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the Division Manager, Technical Services Division at (515) 281-6602 or at the above address. Also there will be a public hearing on Thursday, December 8, 1983, at 9:15 a.m. in the Grimes Conference Room, North Half, on the first floor of the Grimes State Office Building. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Division Manager of the Technical Services Division prior to the date of the public hearing in order to be scheduled.

**ARC 4181****NURSING HOME  
ADMINISTRATORS,  
BOARD OF EXAMINERS[600]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 147.80, the Board of Examiners for Nursing Home Administrators give Notice of Intended Action to amend chapter 2 of the Iowa Administrative Code. The Board intends to adopt the rules under emergency provisions after Notice to implement a request by the Office of the Comptroller to adjust the fees.

The proposed amendments adjust fees to pay for the costs of licensing as required by Iowa Code section 135E.15.

Any interested person may make written comments concerning the proposed amendments not later than 4:30 p.m. November 16, 1983, addressed to Peter J. Fox, Hearing and Compliance Officer, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rules are intended to implement Iowa Code section 147.80.

Rule 600-2.5(147) is rescinded and the following adopted in lieu thereof:

**600-2.5(147) License fees.** All fees are nonrefundable.

**2.5(1)** The basic application fee required for all applicants is fifty dollars. If the applicant has not successfully passed the examinations, an additional fee of fifty dollars is required for the national examination and an additional fee of fifty dollars is required for the state examination.

**2.5(2)** The fee for a provisional letter for a three-month period is sixty dollars.

**2.5(3)** The fee for biennial renewal of all licenses is ninety dollars payable on or before December 31 of each odd-numbered biennium.

**2.5(4)** The fee for a certified statement that a licensee is licensed in this state is ten dollars.

**2.5(5)** The fee for a duplicate license if the original is lost or stolen is ten dollars.

**2.5(6)** The penalty fee for failure to complete required continuing education within the compliance period is thirty dollars.

**ARC 4193****REAL ESTATE COMMISSION[700]****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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 117.9, the Iowa Real Estate Commission proposes action by amending Chapter 1 "Brokers and Salespersons" in order to clarify for the industry and general public certain business practices of real estate licensees for the protection of the public.

Persons interested in commenting on the proposed rule changes shall submit same to the Iowa Real Estate Commission no later than 4:30 p.m., November 20, 1983. Comments shall be submitted to the Commission by sending or delivering them to the Commission office at 1223 E. Court Avenue, Suite 205, Des Moines, Iowa 50319.

The Iowa Real Estate Commission will hold a public hearing concerning these rules at which time oral comments may be made to the Commission. The public hearing will be held at 9:00 a.m. November 22, 1983, in the Commission office at 1223 E. Court Avenue, Suite 205, Des Moines, Iowa. Any individual wishing to present oral comments should notify the Commission office of their intent no later than the time prescribed for submitting written comments.

## REAL ESTATE COMMISSION[700] (cont'd)

These rules are intended to implement Iowa Code sections 117.29 and 117.34.

ITEM 1. Rule 1.9(117) is amended as follows:

**700—1.9(117) Licensee acting as buyer principal.** A licensee shall not buy either directly or indirectly property listed with the licensee nor shall the licensee acquire any interest therein in any property nor shall the licensee sell any property in which the licensee has an interest without first making licensee's true position clear to the owner other party. Satisfactory proof of this fact must be produced by the licensee upon request of the commission.

ITEM 2. Rule 1.19(117) is amended as follows:

**700—1.19(117) Enforcing a protective clause.** To enforce a protective clause beyond the expiration of an exclusive listing contract, there must be a provision for the protective clause in the listing contract which establishes a definite protection period, and the broker must furnish to the owner prior to the expiration the names and addresses of all persons to whom the property was presented during the active term of the listing.

ITEM 3. Rule 1.20(117) is amended as follows:

**700—1.20(117) Offering of prizes.** The offering of prizes or anything of value as an inducement to buy or sell real estate to anyone who is not a licensee under this chapter for any acts for which a real estate license is required including the payment of referral fees shall be considered payment of a commission to a person who is not a licensed broker or salesman under the provisions of this chapter and a violation thereof.

ITEM 4. Chapter 1 is amended by adding the following new rules:

**700—1.34(117) Loan finder fees.** The acceptance of a fee or anything of value by a real estate licensee from a lender or financing company for the referral or steering of a client to the lender for a loan, shall be considered not in the best interest of the public and shall constitute a violation of Iowa Code sections 117.29(3) and 117.34(8).

**700—1.35(117) Distribution of executed instrument.** Upon execution of any instrument in connection with a real estate transaction, a licensee shall, as soon as practicable, deliver a legible copy of the original instrument including listing agreements to each of the parties thereto. It shall be the responsibility of the licensee to prepare sufficient copies of such instruments to satisfy this requirement.

## ARC 4191

### VETERINARY MEDICINE, BOARD OF[842] NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 169.5(8), the Board of Veterinary Medicine gives Notice of Intended Action to amend its current rules for the purpose, among others, of bringing them into conformance with the provisions of 1983 Iowa Acts, Senate File 444. Chapter 1, relating to description of organization, is amended to provide that the Iowa State Veterinarian shall serve as secretary of the board. Chapter 2 is amended to provide for a temporary permit. Chapters 3, 4 and 5, as amended, would provide that three members shall constitute a

quorum for regulation of veterinary assistants other than, and in addition to, animal technicians, and for the initiation of disciplinary proceedings for commission of those acts or offenses enumerated in Iowa Code section 169.13 as amended by 1983 Iowa Acts, Senate File 444, section 8. Rules relating to continuing education and examinations appearing in chapters 3 and 8 are amended. At the suggestion of the Office of the Governor, all rules containing references identified as possibly discriminatory are amended.

Any interested person may submit written comments, data or arguments on these proposed rules prior to November 15, 1983. Such written material should be directed to Dr. Merle H. Lang, Iowa State Veterinarian, Secretary, Board of Veterinary Medicine, Henry Wallace Building, East 9th and Grand, Des Moines, Iowa 50319. There will be a public hearing held in the second floor conference room, Henry A. Wallace Building, East 9th and Grand, Des Moines, Iowa, at 1:00 p.m., November 15, 1983. Persons may present their views at the public hearing, either orally or in writing.

This rule is intended to implement Iowa Code chapter 169 as amended by 1983 Iowa Acts, Senate File 444.

The following amendments are proposed.

ITEM 1. Rule 842—1.1(169,17A) is amended to read as follows:

**842—1.1(169,17A) Organization and duties.** The board shall consist of five members, three of whom shall be licensed veterinarians and two who shall not be licensed veterinarians and who shall represent the general public. The chief of the division of animal industry of the department of agriculture Iowa state veterinarian shall serve as secretary. The board shall administer examinations to applicants for license to practice veterinary medicine.

ITEM 2. Rule 842—1.3(169,17A) is amended to read as follows:

**842—1.3(169,17A) Meetings.** The board shall meet once a year at its headquarters; and shall hold additional meetings for the purpose of administering examinations. ~~Four~~ Three members shall constitute a quorum authorized to act in the name of the board.

ITEM 3. Rule 842—2.2(169) is amended by adding the following item:

Temporary permit ..... \$15.00

ITEM 4. Rule 842—2.3(169) is amended to read as follows:

**842—2.3(169) Reinstatement fee.** All applications for reinstatement of lapsed or inactive license to practice veterinary medicine shall be filed with the secretary of the board, together with the then current license fee and all unpaid fees and penalties for prior years.

ITEM 5. Rule 842—3.1(169) is amended to read as follows:

**842—3.1(169) Examination procedure.** A license to practice veterinary medicine will be issued to a person who has graduated from an approved college of veterinary medicine and has taken and passed the national board examination, achieving a grade of at least 70% based on the acceptable curve. In addition, the applicant shall pass the state board examination satisfactorily, and obtain a minimum score of 75% on the CCT (Clinical Competency Test). The state board examination shall be prepared and given by the professional members of the board. The national board examination and the CCT are prepared by the professional examination service for use by the state boards of veterinary examiners.

## VETERINARY MEDICINE, BOARD OF [842] (cont'd)

ITEM 6. Rule 842—4.1(169) is amended by adding the following new subrule:

**4.1(5)** "Veterinary assistant" means an assistant employed by a licensed veterinarian for a purpose other than diagnosis, prescriptions or performing surgery and includes, among other assistants, registered animal technicians.

ITEM 7. Rule 842—4.4(169) is rescinded in its entirety and reserved for a future use.

ITEM 8. Rule 842—4.5(169) is amended to read as follows:

**842—4.5(169) Supervision.** ~~An animal technician~~ *All veterinary assistants, including animal technicians, shall be employed by and receive compensation from and be under the direct supervision of licensed veterinarian, and the animal technician shall function at same place of business as the veterinarian.*

**4.5(1) Veterinarian's responsibility:**

a. To personally examine the animal before the ~~technician~~ *assistant* carries out any procedures.

b. To direct, control and supervise the conduct of the ~~technician~~ *assistants* in ~~his~~ *their* work.

**4.5(2) ~~Animal technician's~~ *Veterinary assistant's* responsibility.**

a. ~~The animal technician~~ *veterinary assistant, including registered animal technicians,* shall not perform surgery; shall not make a diagnosis and prognosis of animal diseases; shall not prescribe drugs, medicine and appliances.

b. Under conditions of an emergency, a registered animal technician may render such lifesaving aid and treatment as may be prescribed under rules and regulations adopted by the board of veterinary medicine. Such emergency aid and treatment, if rendered to an animal not in the presence of a licensed veterinarian, must only be continued under the direction of a licensed veterinarian. "Emergency" for the purpose of this document means that the animal has been placed in a life threatening condition where immediate treatment is necessary to sustain life.

ITEM 9. Rule 842—4.6(169) is amended to read as follows:

**842—4.6(169) Revocation or suspension of animal technician's certificate.** The following shall be grounds for revocation or suspension of a certificate at the discretion of the board ~~and the secretary of agriculture:~~

1. Fraud, misrepresentation or deception in obtaining a certificate.

2. Conviction of a felony, in which case the record of such conviction will be conclusive evidence.

3. Chronic inebriety or habitual use of drugs.

4. For having professional connection with, or lending one's name to any illegal practice of veterinary medicine and the various branches thereof.

5. Conduct reflecting unfavorably on the vocation of animal health technology.

6. Conviction on the charge of cruelty to animals.

7. ~~Performing as an animal technician while unregistered.~~

ITEM 10. Rule 842—4.7(169) is amended to read as follows:

**842—4.7(169) Action against veterinarians.** The board of veterinary medicine shall take action against any veterinarian licensed to practice in the state of Iowa who permits any ~~animal technician~~ *veterinary assistant, including a registered animal technician, to perform any animal health care services other than those allowed: to perform veterinary duties involving diagnosis, prescription or surgery.* Employing veterinarian must be legally and ethically responsible for all of the ~~animal technician's~~ *veterinary assistant's* professional activities.

ITEM 11. Rule 842—8.3(169) is rescinded and the following inserted in lieu thereof:

**842—8.3(169) Reinstatement.** Practitioners whose license has lapsed or who have been inactive shall, prior to engaging in the practice of veterinary medicine in the state of Iowa, satisfy the following requirements for reinstatement:

**8.3(1)** Successfully complete the examination procedures specified in rule 842—3.1(169) within one year of reinstatement or otherwise demonstrate their proficiency to the satisfaction of the board.

**8.3(2)** Submit written application for reinstatement to the board upon forms provided by the board; and

**8.3(3)** Furnish evidence of one of the following:

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

b. Completion of inactive practitioners of a total number of hours of accredited continuing education computed by multiplying twenty by the number of years of inactive status.

ITEM 12. Rule 842—3.2(169) is amended by deleting the words "him" or "he" wherever they appear and inserting in lieu thereof the words "them" or "they" respectively.

ITEM 13. Rule 842—4.1(169) is amended by deleting the words "in his practice" in subrule 4.1(1).

ITEM 14. Rule 842—6.1(169) is amended by deleting the words "his or her" in subrules 6.1(2) and 6.1(4) and inserting in lieu thereof the words "the licensee's" or "the licensee" respectively.

### NOTICE - USURY

In accordance with the provisions of 1979 Iowa Acts, Chapter 130, the Superintendent of Banking has determined that the maximum lawful rate of interest provided for in Iowa Code section 535.2, as amended, shall be:

January 1, 1982 - January 31, 1982	15.50%
February 1, 1982 - February 28, 1982	15.75%
March 1, 1982 - March 31, 1982	16.50%
April 1, 1982 - April 30, 1982	16.50%
May 1, 1982 - May 31, 1982	15.75%
June 1, 1982 - June 30, 1982	15.75%
July 1, 1982 - July 31, 1982	15.50%
August 1, 1982 - August 31, 1982	16.25%
September 1, 1982 - September 30, 1982	16.00%
October 1, 1982 - October 31, 1982	15.00%
November 1, 1982 - November 30, 1982	14.25%
December 1, 1982 - December 31, 1982	13.00%
January 1, 1983 - January 31, 1983	12.50%
February 1, 1983 - February 28, 1983	12.50%
March 1, 1983 - March 31, 1983	12.50%
April 1, 1983 - April 30, 1983	12.75%
May 1, 1983 - May 31, 1983	12.50%
June 1, 1983 - June 30, 1983	12.50%
July 1, 1983 - July 31, 1983	12.50%
August 1, 1983 - August 31, 1983	12.75%
September 1, 1983 - September 30, 1983	13.50%
October 1, 1983 - October 31, 1983	13.75%
November 1, 1983 - November 30, 1983	13.75%



## ARC 4207

HUMAN SERVICES  
DEPARTMENT[498]

Pursuant to the requirements of Executive Order No. 4, the authority of Iowa Code sections 8.19, 8.31-8.33, 8.38, and the Constitutional requirements of Article III, section 24, and Article VII, the Department of Human Services hereby emergency adopts and implements amendments and revisions to existing rules, so as to avert the constitutionally prohibited shortfall in the general treasury.

[See also ARC 4209, herein]

The following rule amendments are intended to implement the mandated reductions in line item appropriations by reducing the spending obligation of the department.

Chapter 52 - Each residential care facility's per diem rate shall be reduced 4.2 percent prior to payment.

Chapters 77, 78 and 79 - Implementing conditions for medical assistance reimbursement of ambulatory surgical centers to reduce surgery costs.

Chapter 78 - Require hospital stays to be determined as medically necessary prior to admission.

Chapter 79 - Reduce medical assistance reimbursement to physicians, hospitals, and acquisition costs of prescribed drugs by 4.2 percent. Reduce all other medical care providers except Iowa Veterans Home, state hospital-schools, state mental health institutes, intermediate care facilities and intermediate care facilities for the mentally retarded by 6.7 percent.

Chapter 81 - Eliminate the incentive and inflation factors in determining the prospective payment rate for intermediate care facilities.

Chapter 137 - Reduce rates paid for foster care and specialized care by 2.6 percent.

Chapter 145 - Reduce payment of claims for foster care, including shelter care, and foster group care 2.6 percent. Reduce claims for services funded through home-based treatment 4.2 percent. Reduce payment of claims for local purchased services 1 percent.

Chapter 148 - The maximum and contractual cost of care for in-home health service shall be reduced 4.2 percent.

Chapter 160 - The rule incorporates the current contractual provision which allows for renegotiation of the contract for lack of funds with thirty days advance notice.

In addition, the rule provides for a termination of the agreement.

Chapter 161 - The rule incorporates the current contractual provision which allows for renegotiation of the contract for lack of funds with thirty days advance notice.

In addition, the rule provides for a termination of the agreement.

In accordance with Iowa Code section 17A.4(2), the department finds that notice and public participation are impracticable and contrary to the public interest at this time. The department is statutorily and constitutionally required to immediately reduce spending obligations to the level of constitutionally authorized appropriations. The department may not constitutionally deficit spend, which illegal action would occur during the notice and comment period of Iowa Code section 17A.4(2).

In addition and in accordance with Iowa Code section 17A.5(2)"b"(1) to (3), these amendments to rules shall take effect immediately upon filing. The department finds that the constitutional and statutory prohibitions on deficit expenditures necessitate the immediate efficacy of

these amendments. In addition, the department finds that this immediate date of effect confers a public benefit, and is necessary because of a presently existing constitutional peril to the public welfare, caused by spending obligations which, without immediate and effective rule amendments, do now, and will continue to exceed available revenues. To avert this constitutional crisis, there is no time to implement the regular rulemaking process. To the maximum extent possible, all reasonable efforts have been made to give actual and timely notice to persons affected of the content of these rules.

These rules were adopted by the Council on Human Services on September 29, 1983 and take effect on November 1, 1983.

EDITOR'S NOTE: The text of these rules is identical to the rules which were published under Notice of Intended Action, IAB, October 12, 1983, as separate chapters.

ITEM 1. Subrule 52.1(3) is amended to read as follows:  
52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of ~~\$11.85~~ \$11.35 or on a cost-related per diem rate of no more than ~~\$16.85~~ \$16.14. A cost-related per diem rate shall be established for each facility choosing such method of payment according to rule 54.3(249). *Prior to payment each facility's established per diem rate shall be reduced by a factor of four and two-tenths percent.*

*The facility shall accept the per diem rate established by the department for state supplementary assistance recipients and make no additional charges to the recipient.*

*If the reduction in the per diem rate causes the recipient's client participation to exceed the cost of care in a thirty-one day month, the department will issue a one dollar monthly payment to ensure continuing medical eligibility. The recipient or applicant will be eligible for this payment so long as all other eligibility requirements are met and countable income is such that a state supplementary assistance payment would have been made prior to the four and two-tenths percent reduction.*

ITEM 2. Chapter 77 is amended by adding a new rule as follows:

**498—77.24(249A) Ambulatory surgical centers.** Ambulatory surgical centers which are not part of hospitals are eligible to participate in the medical assistance program if they are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

ITEM 3. Chapter 78 is amended by adding a new rule as follows:

**498—78.26(249A) Ambulatory surgical center services.** Ambulatory surgical center services are those services furnished by an ambulatory surgical center in connection with a covered surgical procedure.

The covered services provided by an ambulatory surgical center shall be the same as those covered by the Medicare program. Covered surgical procedures shall be those medically necessary procedures that are eligible for payment and under the same circumstances as physicians' services specified in 498—78.1(249A) performed on an eligible recipient.

**78.26(1)** Abortion procedures are only covered when criteria in subrule 78.1(17) are met.

**78.26(2)** Sterilization procedures are only covered when criteria in subrule 78.1(16) are met.

ITEM 4. Subrule 79.1(2) is amended by adding a new provider category and basis of reimbursement.

19. Ambulatory surgical centers more Medicare.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 5. Subrule 80.2(2) is amended to read as follows:
80.2(2) Claims for payment for services provided recipients who are not Medicare beneficiaries shall be submitted on the following forms:

- a. Ambulance services shall submit claims on Form XIX AMB-1, Ambulance Claim.
b. Audiologists and hearing aid dealers shall submit claims on Form XIX PRACT-1 HCFA-1500, Health Insurance Claim Form and Form XIX DLR-1, Dealer's Claim, respectively.
c. Chiropractors shall submit claims on Form XIX CHIRO-1, Chiropractor Claim.
d. Community mental health centers shall submit claims on Form XIX PRACT-1, Practitioner Claim HCFA-1500, Health Insurance Claim Form.
e. Dentists shall submit claims on Form XIX DENT-1, Dental Claim.
f. Practitioners and institutions providing screening services shall submit claims on Form XIX SCR-1, Screening Claim.
g. Practitioners and institutions providing family planning services shall submit claims on Form XIX PRACT-1, Practitioner Claim HCFA-1500, Health Insurance Claim Form.
h. Home health agencies shall submit claims on Form XIX HHA-1, Home Health Claim.
i. Hospitals providing inpatient care submit claims on Form XIX HOSP-1, Inpatient Hospital Claim. Hospitals providing outpatient services shall submit claims on Form XIX HOSP-2, Outpatient Hospital Claim.
j. Laboratories shall submit claims on Form XIX XLAB-1, Laboratory and X-Ray Claim.
k. Medical equipment appliance and sickroom supply dealers shall submit claims on Form XIX DLR-1, Dealer's Claim.
l. Opticians shall submit claims on Form XIX DLR-1, Dealer's Claim.
m. Optometrists shall submit claims on Form XIX OPTO-1, Optometrist's Claim.
n. Orthopedic shoe dealers shall submit claims on Form XIX DLR-1, Dealer's Claim.
o. Pharmacies shall submit claims on the Universal Pharmacy Claim Form.

- p. Independently practicing physical therapists shall submit claims on Form HCFA-1500, Health Insurance Claim Form.
q. Physicians shall submit claims on Form HCFA-1500, Health Insurance Claim Form.
r. Podiatrists shall submit claims on Form HCFA-1500, Health Insurance Claim Form.
s. Rehabilitation agencies shall submit claims on Form XIX HOSP-2, Outpatient Hospital Claim.
t. Rural health clinics shall submit claims on Form HCFA-1500, Health Insurance Claim Form.
u. Skilled nursing facilities shall submit claims on Form XIX SNH-1, Skilled Nursing Facility Claim.
v. Maternal health centers shall submit claims on Form HCFA-1500, Health Insurance Claim Form.
w. Ambulatory surgical centers shall submit claims on Form HCFA-1500, Health Insurance Claim Form.
x. Independently practicing psychologists shall submit claims on Form HCFA-1500, Health Insurance Claim Form.

ITEM 6. Rule 498-78.3(249A), first paragraph is amended to read as follows:

498-78.3(249A) Hospitals. Payment will be approved for inpatient hospital care as determined to be medically necessary, by the Iowa Foundation for Medical Care or the delegated hospital prior to admission as an inpatient except that obstetric cases admitted for delivery may have medical necessity determined following admission. Continuing medically necessary hospitalization shall be approved not to exceed, unless medically necessary, the fiftieth percentile of length of stay as indicated by recipient's diagnosis on the Length Of Stay In Professional Activity Studies (PAS) Hospitals by Diagnosis, United States, North Central Region, January-December 1980. Payment will be made in excess of the fiftieth percentile only after utilization review approval. No payment will be made for waiver days. Limitations shall be updated annually. There are no limitations on the amount of outpatient care for which payment will be made so long as such care is medically necessary. If the recipient is eligible for inpatient or outpatient hospital care through the Medicare program, payment will be made for deductibles and coinsurance applicable in that program. Payment will be approved only for multiple bed accommodations unless the recipient's physician determines that he must be isolated for medical reasons in which case payment will be made for a private room.

Unless the recipient's physician determines that the patient must be isolated for medical reasons and that a private room is required, payment will be approved only for multiple-bed accommodations.

ITEM 7. Subrule 79.1(8) is rescinded and the following inserted in lieu thereof:

79.1(8) After reimbursement for medical assistance has been determined in accordance with appropriate procedures in place for each provider, reductions shall be made as follows: Physicians, hospitals, and the acquisition cost of prescribed drugs shall be reduced by a factor of four and two-tenths percent. All other medical care providers except the Iowa Veterans Home, state hospital-schools, state mental health institutes, intermediate care facilities and intermediate care facilities for the mentally retarded shall be reduced by a factor of six and seven-tenths percent. Also exempt from any percentage reduction are material costs of products for which reimbursement is made at actual invoice cost.

ITEM 8. Paragraphs 81.6(16) "a", "c" and "d" are rescinded and the following inserted in lieu thereof:

- a. No inflation factor shall be considered in determining the facility's prospective payment rate.
c. No incentive factor shall be considered in determining the facility's prospective payment rate.
d. The reimbursement rate shall be established by determining, on a per diem basis, the allowable cost subject to the maximum allowable cost ceiling.

ITEM 9. Subrule 137.6(1) is amended as follows:

137.6(1) A monthly payment for care in a foster family home licensed in the state of Iowa shall be made to the operator of the foster care facility based on the following schedule.

Table with 2 columns: Age of child, Monthly rate. Rows include 0 through 5, 6 through 11, 12 through 15, 16 and over with corresponding rates.

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 10. Subrule 137.7(1) is amended to read as follows:

**137.7(1)** When a child has a special need for care and supervision due to a handicapping condition of a physical, mental, emotional, social, or educational nature which requires activities on the part of the foster parent above and beyond those normally required in caring for a child, upon recommendation of the social worker, an additional amount may be authorized with the approval of the county director or social service administrator. Such amount shall be based on the severity of the child's handicap and the amount of extra effort required on the part of the foster parents.

Such additional payment may be in the amount of forty-eight ~~seven~~ dollars per month for a mild handicap, requiring a moderate amount of extra effort by the foster parents, ~~seventy sixty-eight~~ dollars per month for a moderate handicap requiring a substantial amount of extra effort by the foster parents, or ~~ninety eighty-eight~~ dollars per month for a severe handicap requiring almost constant extra effort on the part of the foster parents.

ITEM 11. Subrule 145.3(5) is amended by adding a new paragraph "q" as follows:

q. Notwithstanding paragraph "p" above:

(1) Payments for shelter care, independent living, foster family care, and foster group care will be reduced by two and six-tenths percent.

(2) Payments for services funded through the home based treatment appropriation (e.g., mental health service) will be reduced four and two-tenths percent.

(3) Payments for local purchased services (e.g., adult residential care, licensed day care center, registered family day care home, in-home day care, adult day care, adult residential treatment, health related, mental health, work activity, sheltered workshop and transportation) will be reduced one percent.

ITEM 12. Subrule 148.4(3) is amended to read as follows:

**148.4(3)** Maximum costs. The maximum cost of service shall be \$343.60, *subject to four and two-tenths percent reduction. If the cost of care is less than the maximum amount, the contractual cost of care will be reduced by four and two-tenths percent. The provider shall accept the payment made and shall make no additional charges to the recipient or others.*

ITEM 13. Subrule 148.4(7) is amended by adding a new paragraph "f" as follows:

f. A reduction of four and two-tenths percent shall be applied to each Provider Agreement, Form SS-1511-0, for any applicant or recipient. If the computation results in a zero grant for an applicant or recipient, the department will issue a one dollar monthly cash payment to ensure continuing medical eligibility. The recipient or applicant will be eligible for this payment so long as all other eligibility requirements are met and countable income is such that a state supplementary assistance payment would have been made prior to the four and two-tenths percent reduction.

ITEM 14. Subrule 148.4(8) is amended by adding a new paragraph "c" as follows:

c. A reduction of four and two-tenths percent shall be applied to each Provider Agreement, Form SS-1511-0, for any applicant or recipient. If the computation results in a zero grant for an applicant or recipient, the department will issue a one dollar monthly cash payment

to ensure continuing medical eligibility. The recipient or applicant will be eligible for this payment so long as all other eligibility requirements are met and countable income is such that a state supplementary assistance payment would have been made prior to the four and two-tenths percent reduction.

ITEM 15. Rule 160.9(70 GA, HF641) is amended by adding a new subrule as follows:

**160.9(3)** The department shall administer the funds for this program contingent upon their availability. If the department lacks the funds necessary to fulfill its fiscal responsibility under this program, the contracts shall be terminated or renegotiated. The department may terminate any agreement to distribute domestic abuse funds by giving the contractor thirty days' notice of its intent to terminate.

ITEM 16. Rule 161.8(241) is amended by adding a new subrule as follows:

**161.8(3)** The department shall administer the funds for this program contingent upon their availability. If the department lacks the funds necessary to fulfill its fiscal responsibility under this program, the contracts shall be terminated or renegotiated. The department may terminate any agreement to distribute displaced homemaker funds by giving the contractor thirty days' notice of its intent to terminate.

These rules are intended to implement Iowa Code sections 8.31 to 8.33 and 217.6.

[Filed emergency 10/7/83, effective 11/1/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## ARC 4170

### MERIT EMPLOYMENT DEPARTMENT[570]

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Merit Employment Department emergency adopts and implements an amendment to Chapter 11, "Separations, Disciplinary Actions and Reduction in Force", Iowa Administrative Code.

This amendment modifies the current subrule which requires that employees can only be reduced by whole days and which also limits the period of time the employee can be affected. This amendment provides for an equivalent reduction in the number of work hours and allows an agency the flexibility to extend the reduction over a greater period of time, as long as the impact on the employee does not exceed 120 hours in a fiscal year, as is currently the case.

In compliance with Iowa Code section 17A.4(2), the department finds that notice and public participation would be unnecessary as the change does not substantially affect employees, but simply provides an alternative method for dealing with the need to reduce the time worked by an employee(s).

The department also finds, pursuant to section 17A.5(2) "b"(2), that the normal effective date of this amendment thirty-five days after publication should be waived and the amendment be made effective upon filing with the Administrative Rules Coordinator on October 5, 1983, to

## MERIT EMPLOYMENT DEPARTMENT[570] (cont'd)

provide for immediate application when considering relief for current cutbacks in funding and to eliminate possible conflict surrounding the intended interpretation of the present subrule.

This amendment is simultaneously being submitted as Notice of Intended Action, ARC 4171.

This rule is intended to implement Iowa Code section 19A.9.

The following amendment is adopted.

Rule 570 - 11.3(19A) is amended by striking subrule 11.3(1) and inserting in lieu thereof the following:

**11.3(1)** The following agency actions shall not constitute a reduction in force nor require application of these reduction in force rules:

a. An interruption of employment for no more than a total of fifteen work days or 120 hours in a fiscal year due to budgetary limitations or lack of work.

b. Interruptions in the employment of school term employees during recesses in the academic year or during the summer, or other seasonal interruptions that are a condition of employment.

c. The transfer of an employee within an agency.

[Filed emergency 10/5/83, effective 10/5/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

ARC 4167

## PROFESSIONAL AND OCCUPATIONAL REGULATION COMMISSION [637]

Pursuant to the authority of Iowa Code section 2B.3, the Professional and Occupational Regulation Commission emergency adopts these rules amending Chapter 2, "Organization and Administration", to alter the membership specifications of the Commission, the mailing address of the Commission, the title of the staffing agency for the Commission and the minutes mailing procedure and Chapter 5, "Evaluation of Professions and Occupations Which Are Regulated" to repeal the schedule of professional and occupational review.

In compliance with Iowa Code section 17A.4, subsection 2, the Commission finds that public notice and participation is unnecessary or contrary to the public interest in that 1983 Iowa Acts, Senate File 391, has altered the appointment process and staffing responsibility for the Commission. The present rules of the Commission are in conflict with the statutory mandates regarding Commission appointments, staffing responsibility, and notification mailing address. The rule regarding a schedule for review is no longer applicable to the present Commission as altered by 1983 Iowa Acts, Senate File 391, and creates unnecessary and potentially harmful confusion among the public and those professions and occupations previously scheduled for review.

The Commission also finds pursuant to Iowa Code section 17A.5, subsection 2, paragraph "b", subparagraph (2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on September 28, 1983, as it confers a benefit upon the public to ensure effective and direct communication with the Commission at the earliest possible time and within the time constraints established by the previously adopted rules.

The Professional and Occupational Regulation Commission adopted these amended rules at a regular meeting on September 14, 1983.

These amended rules implement Iowa Code chapter 2B, as amended by 1983 Iowa Acts, Senate File 391.

ITEM 1. Subrules 2.1(2) and 2.1(5) are amended to read as follows:

**2.1(2) Membership.** The commission shall be composed of: Two senators, not more than one from the same political party, appointed by the ~~president of the senate legislative council~~; two representatives, not more than one from the same political party, appointed by the ~~speaker of the house legislative council~~; and five persons, not more than three from the same political party, appointed by the ~~governor and confirmed by two-thirds of the members of the senate legislative council~~. Upon receiving a resignation from a member of the commission, the chairperson of the commission shall notify the ~~governor, the president of the senate, or the speaker of the house legislative council~~ that a new appointment is required. Members shall notify the chairperson if they become ineligible for membership on the commission due to membership in a licensed profession.

ARC 4168

## PLANNING AND PROGRAMMING[630]

Pursuant to the authority of Iowa Code section 7A.3, rules of the Office for Planning and Programming (OPP) appearing in the IAC, relating to developmental disabilities (Chapter 10), are hereby rescinded. The authority for the rules are no longer vested with the Office for Planning and Programming.

Office for Planning and Programming finds notice and public participation are unnecessary. This change was necessitated by the legislative transfer of the program. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The agency also finds pursuant to Iowa Code section 17A.5(2)"b"(2) that this change confers a benefit on the public. By eliminating this chapter, we will avoid confusion that may arise.

This rule shall become effective immediately upon filing.

Rescind 630—Chapter 10.

[Filed emergency 10/4/83, effective 10/4/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## PROFESSIONAL AND OCCUPATIONAL REGULATION COMMISSION[637] (cont'd)

2.1(5) Office location. Office space and staff assistance shall be provided by the ~~office for planning and programming~~ *legislative service bureau*. Correspondence may be directed to Commission on Professional and Occupational Regulation, ~~Office For Planning and Programming, 523 East Twelfth Street Iowa Legislative Service Bureau, State House, Des Moines, Iowa 50319.~~ Telephone calls may be directed to 515/281-~~3711~~ 3566.

ITEM 2. Subrule 2.2(3) is amended to read as follows:

2.2(3) Minutes. The ~~office for planning and programming~~ *legislative service bureau* shall provide staff to the commission to take minutes of the proceedings of each meeting. The minutes shall become the official record of all actions of the commission upon approval by the subsequent meeting of the commission. The staff shall have the minutes duplicated and distributed to commission members ~~and persons on the approved mailing list.~~

ITEM 3. Subrule 2.3(1) is amended to read as follows:

2.3(1) Notice of intended action. The commission shall give notice of intent to adopt administrative rules in accordance with the provisions of *Iowa Code* chapter 17A. ~~The Code:~~ The notice shall direct written comments and requests to make oral presentations to Commission on Professional and Occupational Regulation, ~~Office for Planning and Programming, 523 East Twelfth Street Legislative Service Bureau, State House, Des Moines, Iowa 50319.~~

ITEM 4. Rule 5.2(68GA, ch 41) is rescinded and the number reserved.

[Filed emergency 9/28/83, effective 9/28/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## ARC 4196

## BLIND, COMMISSION FOR[160]

Pursuant to the authority of Iowa Code section 601B.6(8), the Iowa Commission for the Blind adopted on October 1, 1983, an amendment to Chapter 2, "Services," Iowa Administrative Code.

Notice of Intended Action was published in IAB 23, May 11, 1983, as ARC 3745.

Changes from the notice consist largely of the addition of clarifying language and stylistic revisions to convey more accurately the purpose of the rule. Language has been added to paragraph "c" clarifying the agency's intent to recognize clients' right to attend private institutions if they wish. These changes were made as a result of extensive public comment received since publication of notice.

This rule is intended to implement Iowa Code sections 601B.6(5) and 601B.7.

This rule will become effective on December 1, 1983.

Rule 160—2.5(601B) is amended by addition of the following subrule:

**2.5(4) Vocational training for vocational rehabilitation clients.**

a. Within limits imposed by the amount of funds available, the commission will provide or cause to be provided the vocational training necessary for achievement of optimum vocational success. The extent and type of training will be agreed upon as part of a client's individualized written rehabilitation plan and approved by the program manager — field operations.

b. Clients sponsored by the commission in postsecondary education shall apply for scholarships and tuition grants in accordance with federal vocational rehabilitation policy. At a minimum, clients shall apply for federal and state grants and any other grants or scholarships available from the training institutions.

c. In the event that severe revenue shortages make budget reductions necessary, the commission board may invoke a limitation on payment of tuition each semester for clients beginning postsecondary education for the first time after January 1, 1984, to a rate no greater than the maximum tuition rate effective at institutions operated by the Iowa board of regents for each semester of the client's enrollment. When it is necessary to invoke this limitation with general notice to the public and to clients potentially affected, exceptions will be made in cases in which reasonable necessity for waiver can be demonstrated, the client's counselor recommends waiver, and the program manager — field operations approves the waiver before the client's enrollment. In no case, however, shall this rule be construed as discouragement of a client's attending private or out-of-state institutions when utilization of other available funds makes it possible to do so.

d. The individual written rehabilitation plan in effect at the time of enrollment will include such items as books, tools, supplies, reader service, maintenance, and other necessary costs associated with postsecondary education.

[Filed 10/7/83, effective 12/1/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## ARC 4197

## BLIND, COMMISSION FOR[160]

Pursuant to the authority of Iowa Code section 601B.8(6), the Iowa Commission for the Blind adopted on October 1, 1983, an amendment to Chapter 4, "Vending Facilities," Iowa Administrative Code.

Notice of Intended Action was published in IAB 23, May 11, 1983, as ARC 3760.

Changes from the notice are as follows:

4.4(2)—first paragraph: Language has been added in response to suggestions received during the public comment period so that the revised rule now incorporates the following provisions: Investigations other than a periodic survey may be used to determine the basis for suspension from management. The word "commission" is replaced throughout with "commission director or designee" to assign accurately the responsibility for action. Evidence of "repeated" and not merely casual violation is explicitly required before measures provided in this rule are invoked. Violation of the operating agreement between the commission and the operator as well as of the permit for the facility is considered grounds for invoking the rule's provisions. The commission is formally committed under the revised rule to offer explanation to the operator of the specific violation and to offer assistance. Violations which may invoke the provisions of this rule are specifically limited to those which pose imminent threat to health or jeopardize the commission's permit to operate the facility. Showing good faith effort to remedy deficiencies cited is considered sufficient remedy to avoid imposition of penalties by the commission.

4.4(2)—second paragraph: Language has been clarified but intent is the same as that published under Notice of Intended Action.

4.4(2)—third paragraph has been added to distinguish suspension from management duties under the operating agreement from suspension of a license to operate a vending facility.

This rule will become effective December 1, 1983.

This rule is intended to implement Iowa Code sections 601B.6(8) and 601B.7.

Rule 160—4.4(601B, 601C) is amended as follows:

The rule carries only the catchwords "Termination of licenses and suspension from management duties."

The present text of the rule is made subrule 4.4(1), carrying the catchwords "Termination of licenses."

New subrule 4.4(2) is added as follows:

4.4(2) Emergency suspension from management of a vending facility. When on the basis of a periodic survey or other investigation the commission director or designee determines that the vendor has repeated or continued violations of one or more terms of the commission's permit to operate the vending facility or the operating agreement between the vendor and the commission, the commission director or designee shall explain the violation to the vendor (orally where possible but not impracticable because of time or distance), deliver in person where possible a written explanation, offer management assistance, and formally notify the vendor immediately, either in writing or orally followed immediately by written notice, of any violation which (a) poses an imminent threat to the health of the facility's patrons, or

**BLIND, COMMISSION FOR[160] (cont'd)**

(b) jeopardizes the commission's permit to operate the facility. The written notice shall confirm all efforts to resolve the matter. Time limits herein shall run from the original notice, whether written or oral. The vendor shall within two days of receiving the notice correct the violation, clearly demonstrate to director or designee a good faith effort to correct it, or demonstrate to the commission director or designee that no violation has occurred.

If the vendor fails to correct the violation or otherwise respond within two days, the director or designee may, if applicable, give notice to the vendor by registered certified mail or a written finding (a) that the violation poses an imminent threat to the health of the facility's patrons and that the vendor is suspended from management of the facility twenty-four hours after receipt of the written finding, pending an evidentiary hearing pursuant to IAC 160—subrule 4.12(2) to be held within seven calendar days of receipt of the written notice, or (b) that the violation is contrary to terms of the commission's permit to operate the facility, that it is of such a nature as to jeopardize the commission's permit and that the vendor is suspended from management of the facility seven calendar days after receipt of the written finding, pending an evidentiary hearing pursuant to IAC 160—subrule 4.12(2) to be held within seven calendar days of receipt of the written finding.

In suspensions from management of a vending facility, the license of the vendor shall be unaffected unless formal proceedings for suspension or termination of license under 4.4(1) above are invoked; and the income from the facility shall, in accordance with terms of the operating agreement between the vendor and the commission, continue accruing to the operator pending the outcome of the evidentiary hearing. All other provisions of the operating agreement shall, however, be suspended pending the outcome of the evidentiary hearing held pursuant to rule 4.12(2).

[Filed 10/7/83, effective 12/1/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4203****COMMERCE COMMISSION[250]**

The Iowa State Commerce Commission gives notice, pursuant to Iowa Code section 17A.4, that on October 7, 1983, the Commission issued an order in Docket No. RMU-83-15, In Re: Filing of Written Statements and Requests for Oral Presentation, "Order Adopting Rule." Notice of Intended Action was published in the August 3, 1983, Iowa Administrative Bulletin as ARC 3962.

The adopted rules require that the time period for the filing of written statements of position and requests for oral presentation be not less than twenty nor more than thirty calendar days. The time period will be determined by the Commission for each individual rulemaking. The purpose of this rulemaking is to expedite the rulemaking process for those proposals that will not generate extensive comments. The amendments to Iowa Administrative Code 250—subrules 3.4(2) and 3.6(1) were made after careful review of the written statements of position. Our

proposed rulemaking reduced the number of days given for these filings from thirty to twenty calendar days. The adopted rules satisfy the intent of the rulemaking and incorporate suggestions from the written statements of positions.

The rules will become effective November 30, 1983, pursuant to Iowa Code section 17A.5.

ITEM 1. Amend subrule 3.4(2) to read as follows:

**3.4(2) Filing.** *The time period, as directed by the commission, for filing of written statements of position shall be filed with the commission not later than thirty not less than twenty, nor more than thirty calendar days after publication of the notice of rulemaking; if any, in the "Iowa Administrative Bulletin." If the publication of a notice of rulemaking is not required by law, written statements of position may be filed as authorized by the commission.*

ITEM 2. Amend subrule 3.6(1) to read as follows:

**3.6(1) Filing.** *The time period, as directed by the commission, for filing of requests for oral presentation shall be filed not later less than twenty, nor more than thirty calendar days after the publication of the notice of rulemaking; if any, in the "Iowa Administrative Bulletin."*

[Filed 10/7/83, effective 11/30/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4204****COMMERCE COMMISSION[250]**

The Iowa State Commerce Commission gives notice, pursuant to Iowa Code section 17A.4 that on October 7, 1983, the Commission issued an order in Docket No. RMU-83-2, In Re: Basic Local Service, "Order Adopting Rules." The Notice Of Intended Action was published in the August 17, 1983, Iowa Administrative Bulletin as ARC 3996.

The adopted rule requires that each telephone utility must make available to its residential customers a new class of service called "Basic Local Service." This service will allow calls within the local exchange or extended area only, but will not allow access to the toll network. No charges for access to the toll network will apply. This service will be a required offering only where the exchange equipment is technically capable of restricting toll access on a reasonably economical basis. The adopted rule is substantially unchanged from the rule published in the August 17, 1983, Iowa Administrative Bulletin. It has been amended to provide that basic local service must be available on or before January 1, 1984.

This rule will become effective December 1, 1983, pursuant to Iowa Code section 17A.5.

ITEM 1. Amend subrule 22.1(3) by adding the following definition, to be inserted alphabetically:

"Basic local service" means the level of service at which a residential customer has exchange service or, if available, extended area service, and not the ability to access the toll network.

## COMMERCE COMMISSION[250] (cont'd)

ITEM 2. Amend subrule 22.2(5) by adding to the end of the current rule the following new paragraph:

v. Separate rates or charges for basic local service, including the company's rate, which shall not exceed the rate applicable to local service, and provisions for alerting all existing and new residential customers of the basic local service option and informing them that this choice may be reversed once within sixty days after the initial election without a service fee, and that there is no service charge for the initial election of this service by a customer.

ITEM 3. Amend rule 250—22.3(476) by adding the following new subrule:

**22.3(14) Basic local service.** Telephone utilities shall make available, on or before January 1, 1984, basic local service to all residential customers in exchanges technically capable of blocking access to the toll network on a reasonably economical basis. Telephone utilities shall not assess any access charge to the long-distance network for the provision of basic local service.

[Filed 10/7/83, effective 12/1/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## ARC 4172

## CONSERVATION COMMISSION[290]

Pursuant to the authority of Iowa Code sections 106.17, 107.24, and 106.3, the State Conservation Commission at their regular meeting on October 5, 1983, adopted the following amendments to Chapter 30, "Zoning and Watercraft Use".

Notice of Intended Action was published in IAB 3, August 3, 1983, as ARC 3930.

This rule allows the Commission to change the horsepower limit on political subdivision waters that meet the criteria of Iowa Code section 106.17.

There are no changes from the Notice of Intended Action.

This rule implements Iowa Code section 106.17.

This rule will become effective December 1, 1983.

The following rule is adopted:

**290—30.3(106) Horsepower—political subdivision waters.** Upon application of any subdivision of this state and subject to the criteria set out in Iowa Code section 106.17, the conservation commission may make the following special regulations:

1. A motor size limit of 10 horsepower.
2. All vessels must operate at a "no wake speed".

The special regulations shall be in effect only when visibly posted at the established ramps on the affected water area.

[Filed 10/6/83, effective 12/1/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## ARC 4169

## HEALTH DATA COMMISSION[465]

Pursuant to the authority of Iowa Code sections 135.11 and 505.8 as amended by 1983 Iowa Acts, House File 196, sections 7 and 10, the Health Data Commission adopts rules creating the following new chapters: Chapter 1-Organization and Operation; Chapter 2-Administrative Hearings; Chapter 3-Administrative Rules; and Chapter 4-Declaratory Rulings. Adoption of these rules was authorized at the September 15, 1983 meeting of the Health Data Commission after consideration of all written and oral comments.

Chapter 1 describes the organization and general course of operation of the Health Data Commission. Chapter 2 delineates the procedures to be used in contested cases before the Health Data Commission. The procedures to be utilized by the public and the Health Data Commission in dealing with petitions for rule-making and promulgation of administrative rules are described in Chapter 3. A description of the procedure for the filing and disposition of petitions for declaratory rulings is contained in Chapter 4.

Notice of Intended Action and filed emergency rules were published in the August 3, 1983 IAB as ARC 3954 and 3953, respectively.

Changes from ARC 3953 are as follows:

- 1.1(7) - deleted.
- 2.2 - amended.
- 2.3 - amended.
- 2.4 - amended.
- 2.8(1) - amended.
- 2.8(2) - amended.
- 2.8(3) - added.
- 2.16(1) - amended.
- 2.16(2) - amended.
- 2.16(4) - added.
- 2.18 - amended.
- 3.1(1) - amended.
- 3.1(1)"b"(2) - amended.
- 3.1(1)"b"(6) - amended.
- 4.1 - amended.
- 4.3 - amended.

These rules will become effective on November 30, 1983.

These rules implement Iowa Code sections 17A.3(1)"a", 17A.3(1)"b", 17A.7, and 17A.9.

Rescind chapters 1 to 4 and insert in lieu thereof the following:

## CHAPTER 1

## ORGANIZATION AND OPERATION

**465—1.1(70GA, HF196) Purpose.** The health data commission shall collect, analyze, and disseminate data necessary to improve the overall cost effectiveness of the health care system in Iowa, while maintaining acceptable standards for quality of care. In furthering this purpose, the health data commission shall provide information and reports which:

1. Encourage the prudent purchasing of health care services, thereby stimulating competition among providers and the development of alternate delivery systems.
2. Identify those styles of practice and methods of service delivery which combine efficiency and an acceptable quality of care, in order to foster consensus on cost-effective treatment.



## HEALTH DATA COMMISSION[465] (cont'd)

3. Raise the awareness of health care providers, purchasers, and consumers regarding the variability of practice patterns and costs by specific providers and geographic areas in Iowa.

4. Raise the awareness of all Iowans regarding the positive impact which healthier lifestyles would have on health status, health care costs, and quality of life.

5. Identify data on diagnoses and procedures which will enable utilization resources to be focused on less efficient providers and on high cost/high utilization areas.

6. Facilitate more effective co-ordination of cost containment efforts among Iowa's purchasers, third party payers, provider organizations, consumers, business-labor-provider coalitions, regulators, planners, and other major participants in the health care system.

**465—1.2(70GA, HF196) Organization.** The health data commission consists of the commissioners of health, human services, and insurance, one state senator and one state representative who are not of the same party, and the chairperson of the board of directors of the entity under contract to provide staff for the commission. The commissioners of health, human services, and insurance are voting members of the commission. The state senator, state representative, and chairperson of the entity under contract to provide staff for the commission are nonvoting members of the commission.

**1.2(1)** The chairperson. The chairperson of the commission is chosen from among the voting commissioner members on an annual, rotating basis. Rotation is alphabetic by department name. The chairperson's duties include convening commission meetings and chairing such meetings. In addition, the chairperson is responsible for seeing that commission proceedings are recorded, that minutes of such meetings are prepared and distributed, that tentative meeting agendas are prepared and distributed, and that all notices required by Iowa Code section 28A.4 are given. The vice-chairperson of the commission is chosen by and from among the commissioner members on an annual basis. The vice-chairperson shall assume the chairperson's duties in the chairperson's absence.

**1.2(2)** Quorum and action. A majority of the six members of the commission including at least two voting members constitute a quorum. Action of the commission is not taken except upon the affirmative vote of a majority of the voting members of the commission. Administrative rules and other materials considered are made a part of the commission's minutes by reference. In cases not covered by these rules, Robert's Rules of Order shall govern.

**1.2(3)** Meetings. The commission shall meet at least once during each calendar quarter. Meeting dates shall be set by members of the commission at the end of each meeting or by call of the chairperson upon five days' notice.

**465—1.3(70GA, HF196) Operation.** The technical and administrative functions of the commission shall be apportioned among the departments of health, human services, and insurance and the entity under contract to provide staff for the commission.

**465—1.4(70GA, HF196) Communications.** Communications to the commission shall be addressed to the Health Data Commission, 601 Locust, Suite 330, Des Moines, Iowa 50309 unless otherwise specified by commission rules.

These rules are intended to implement Iowa Code section 17A.3(1)"a" and 1983 Iowa Acts, House File 196.

## CHAPTER 2 ADMINISTRATIVE HEARINGS

**465—2.1(70GA, HF196) Scope.** A hearing shall be granted to any person aggrieved by final agency action of the commission when the right to a hearing is granted by statute or constitution, including but not limited to disputes as to the accuracy of provider information prepared for dissemination pursuant to 1983 Iowa Acts, House File 196, section 3, subsection 3, paragraph "c".

**465—2.2(70GA, HF196) Requests for hearings.** A request for hearing shall not be timely unless filed within forty-five days of the official health data commission action giving rise to the request for hearing. All requests for hearings shall be submitted in writing by certified mail return receipt requested to the Health Data Commission, 601 Locust, Suite 330, Des Moines, Iowa 50309.

**465—2.3(70GA, HF196) Notice of hearings.** Notice of the hearing shall be prepared by the hearing officer in the form of an order and be mailed by restricted certified mail return receipt requested to all parties at least thirty days before the date of the hearing unless the parties agree to an earlier date. In cases involving ten or more parties, notice may be given by ordinary mail.

**465—2.4(70GA, HF196) Informal settlement.** At the hearing officer's discretion, sua sponte or upon request of any party to the hearing, the hearing officer may hold prehearing or posthearing conferences for the purpose of settlement of the matter or for facilitating the hearing or decision of the hearing officer. Notice shall be given to the parties of the time and place of such conference and the purpose therefor. A record shall be made of all agreements and actions resulting from any such conference. The hearing officer may issue an order setting forth all such agreements and actions. The matter may also be resolved by consent order approved by the hearing officer. Absent objections of the parties, such agreements and actions at the conference shall become part of the hearing record and be binding upon all parties. The matter may be resolved during the informal conference. A settlement of the issues, as entered into by the parties, is binding upon the parties after final approval by the commission.

**465—2.5(70GA, HF196) Consolidated hearing.** When a request for a hearing is made and there is another request for a hearing pending with respect to the same party, the hearing officer may conduct a consolidated hearing on such pending requests for hearing if practical. When a consolidated hearing is held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the other, and a separate or consolidated decision shall be made as appropriate.

**465—2.6(70GA, HF196) Change of time and place for hearing.** The hearing officer may change the time and place for the hearing, either sua sponte or for good cause shown by a party. Good cause shall not include the inability to complete discovery if the party requesting the delay has not served its requests for discovery at least ten days prior to the scheduled hearing date. The hearing officer may adjourn, postpone, or reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice to the party of the decision in the case.

## HEALTH DATA COMMISSION[465] (cont'd)

Notice shall be given to the parties by order of any change in the time or place of hearing or an adjournment or a reopening of the hearing.

**465—2.7(70GA, HF196) Subpoenas.** When reasonably necessary for the full presentation of a case, the hearing officer or the commission may, sua sponte or upon the request of a party, issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers and other documents which are relevant and material to any matter in issue at the hearing. Parties who desire the issuance of a subpoena shall file with the hearing officer or the commission a written request therefor, designating the witnesses or documents to be produced, and describing the address or location thereof.

The responsibility for having the subpoena served by a peace officer or otherwise shall be upon the party who requests the issuance of the subpoena. The party who requests the subpoena shall pay the cost of having the subpoena served and the cost of the witness fees and travel for the witness. A witness who appears because of subpoena shall receive a witness fee and mileage expense in accordance with the rules of civil procedure. A witness shall not receive mileage for travel when traveling in a vehicle for which another witness is receiving mileage. Witness fees and travel expenses chargeable to the commission shall be apportioned equally among the departments of health, insurance, and human services.

**465—2.8(70GA, HF196) Right to appear and present evidence.** The aggrieved party shall have the right to appear in person or by attorney before the hearing officer and present evidence and contentions. In regard to any aggrieved party unwilling, unable or waiving the right to appear personally or by attorney before the hearing officer, it shall not be required that an oral hearing be conducted although the hearing officer may, if it is deemed necessary, conduct an oral hearing. In the event the aggrieved party does not appear and good cause is not demonstrated, the hearing officer may find that the aggrieved party's position has been abandoned or issue findings of fact and a proposed decision. Good cause for a party's failure to appear at a hearing may include, but is not limited to, a serious illness, death, or natural disaster. The determination as to whether good cause exists for a party's failure to appear shall rest within the hearing officer's sound discretion.

**2.8(1)** Unless required for the disposition of ex parte matters specifically authorized by statute, the hearing officer or the members of the commission shall not communicate directly or indirectly with any party or their representative, nor shall such party or their representative communicate directly or indirectly with the hearing officer or the members of the commission concerning any issues of fact or law in a contested case unless:

a. Each party or their representative is given written notice of the communication. Such notice shall contain a summary of the communication, if oral, or a copy of the communication, if written, and the time, place and means of such communication;

b. After such notice, all parties shall have the right, upon written demand, to respond to such communication, including the right to be present and heard if the communication is oral and not completed. If the communication is written, or if oral and completed, any other person has the additional right to a special hearing for the purpose of responding to the ex parte communication.

**2.8(2)** Any ex parte communication prohibited by Iowa Code section 17A.17, subsections 1 and 2 received by a hearing officer or members of the commission shall be included in the record. If the prohibited ex parte communication is received orally, the hearing officer shall summarize the communication and include it in the record. Any party to the contested case shall be immediately notified of the communication and given a reasonable opportunity to respond including, if necessary, a special hearing.

**2.8(3)** If a party or a party's representative makes an ex parte communication to the hearing officer or to a member of the commission which that party or representative knows or reasonably should have known would be in violation of the provisions of Iowa Code section 17A.17(2) or the provisions of these rules, the hearing officer or commission may decide against that party on those issues of fact and law which were the subject of the ex parte communication.

A hearing officer or commission member who knowingly violates the provisions of Iowa Code section 17A.17(1) or the provision of these rules may be subject to reprimand or other reasonable sanctions the commission deems necessary. Where the hearing officer or a commission member has participated in a prohibited ex parte communication, the hearing officer or commission member may be voluntarily recused sua sponte, be recused by a vote of the majority of the commission members participating in that case, or the commission may take other action as is appropriate to cure the violation.

**465—2.9(70GA, HF196) Conduct of hearing.** A hearing shall be conducted by a qualified administrative hearing officer who, among other things, shall:

**2.9(1)** Open the record and receive appearances.

**2.9(2)** Administer oaths and issue subpoenas.

**2.9(3)** Enter the notice of hearing into the record.

**2.9(4)** Receive testimony and exhibits presented by the parties.

**2.9(5)** Interrogate witnesses at the hearing officer's discretion.

**2.9(6)** Rule on objections and motions.

**2.9(7)** Close the hearing.

**2.9(8)** Issue a proposed decision containing findings of fact and conclusions of law.

**465—2.10(70GA, HF196) Order of hearing.** The hearing shall be conducted in accordance with the following procedure unless otherwise directed by the hearing officer:

**2.10(1)** The commission may make an opening statement.

**2.10(2)** The aggrieved party may make an opening statement personally or through counsel.

**2.10(3)** The commission shall present its evidence first at the hearing.

**2.10(4)** The aggrieved party may then present evidence which will support the position of the aggrieved party.

**2.10(5)** Both the commission and the aggrieved party may cross-examine witnesses.

**2.10(6)** Rebuttal and surrebuttal evidence may be permitted at the discretion of the hearing officer.

**2.10(7)** The commission may make a closing statement.

**2.10(8)** The aggrieved party may make a closing statement.

**465—2.11(70GA, HF196) Discovery and depositions.** Discovery procedures may be utilized as permitted under Iowa Code section 17A.13, and the rules of civil pro-

## HEALTH DATA COMMISSION[465] (cont'd)

cedure. The party requesting discovery shall pay the costs associated therewith including, but not limited to, the fees allowed by Iowa Code section 68A.3. Depositions taken in accordance with the rules of civil procedure may be used as evidence with the approval of the hearing officer.

**465—2.12(70GA, HF196) Witnesses.** Witnesses at the hearing shall testify under oath. Witnesses shall be subject to examination by the hearing officer and the parties or their attorney. If the hearing officer conducts the examination of a witness, the parties may suggest matters as to which they desire the witness to be questioned, and the hearing officer shall question the witness with respect to such matters if they are relevant and material to any issue pending for decision. On the motion of any party, or sua sponte, the hearing officer may order the sequestration of witnesses to be called in any proceeding.

**465—2.13(70GA, HF196) Oral argument and written allegations.** The parties shall file briefs or other written statements or allegations as to facts or law requested by the hearing officer. Where there is more than one party to the hearing, copies of any brief or other written statement shall be filed in sufficient number that they may be made available to any party.

**465—2.14(70GA, HF196) Dismissal for cause.** The hearing officer may dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances.

**2.14(1) Res judicata.** Where there has been a previous determination or decision by the commission with respect to the same party on the same facts pertinent to the same issue or issues which has become final.

**2.14(2) No right to hearing.** Where the party requesting a hearing is not an aggrieved party or does not otherwise have a right to a hearing.

**2.14(3) Hearing request not timely filed.** Where the party has failed to file a hearing request within the time period required by 2.3(70GA, HF196), statute, or rule.

**465—2.15(70GA, HF196) Teleconference hearing.** A teleconference hearing is a contested case conducted by the hearing officer over the telephone. The hearing officer shall determine whether a contested case will be conducted in person or by teleconference hearing. In addition to the notice required by 2.3(70GA, HF196), all parties shall be notified in writing of the time and date for a teleconference hearing at least ten calendar days in advance of the teleconference hearing. An aggrieved party may request the teleconference hearing be rescheduled as an in-person hearing. All requests that a teleconference hearing be rescheduled as an in-person hearing shall be granted.

**465—2.16(70GA, HF196) Administrative appeal.**

**2.16(1)** When the hearing officer makes a proposed decision or order, that decision or order then becomes the final decision or order of the commission without further proceedings unless an appeal to or review on motion of the commission is filed within fifteen days after personal service or mailing of the proposed decision or order to the person to whom the notice of hearing was sent. The decision or order shall be mailed by certified mail return receipt requested or delivered by personal service. In cases involving ten or more parties, the hearing officer's decision or order may be sent by ordinary mail.

**2.16(2)** Any notice of appeal to the commission for review of the proposed decision or order of the hearing officer must be made in writing and mailed to the Health Data Commission, 601 Locust, Suite 330, Des Moines, Iowa 50309 by certified mail return receipt requested or by personal service within fifteen days after the mailing or after delivery by personal service of the proposed decision or order to the aggrieved party. A copy of the notice of appeal shall also be mailed to the hearing officer and to all other parties who officially appeared as a matter of record at the hearing. The notice of appeal shall state the reason(s) for appeal. A party to the hearing who is not the appealing party may participate in the appeal upon filing a notice of intervention with the commission within ten days of the commission's receipt of notice of appeal, a copy of which shall be sent to the hearing officer and to the appealing party.

**2.16(3)** Upon receipt of notice of appeal, the hearing officer shall prepare the record of the hearing for submission to the commission. The record shall include the following:

- a. All pleadings, motions and rulings.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections, and rulings thereon.

- e. All proposed findings and exceptions.
- f. The order of the hearing officer.

**2.16(4)** An appeal to the commission shall be based upon the record made before the hearing officer. No new evidence shall be presented unless requested of and granted by the commission for good cause shown; all requests shall be in writing, copies of which shall be served upon other parties to the appeal. The commission may, in its discretion, take official notice of matters in accordance with Iowa Code section 17A.14(4).

A briefing schedule shall be established by the commission; parties may submit a briefing schedule to the commission for its approval. Oral arguments shall be held before the commission only upon written request which will be granted in the discretion of the commission.

The commission's review shall be de novo.

**2.16(5)** A decision or order of the commission becomes a final order upon mailing by certified mail return receipt requested or by personal service. In cases involving ten or more parties, the commission's decision or order becomes final upon mailing by ordinary mail.

**465—2.17(70GA, HF196) Application for rehearing.** Any petition for rehearing shall be filed in accordance with Iowa Code section 17A.16(2). The filing of an application for a rehearing is not necessary to exhaust administrative remedies. Appeal to the commission or to the district court as provided in Iowa Code section 17A.19 may be made without filing an application for a rehearing.

**465—2.18(70GA, HF196) Judicial review.** Unless otherwise provided by statute, any petition for judicial review of a decision or order must be filed in compliance with Iowa Code section 17A.19. A proposed decision or order of a hearing officer shall become final fifteen days after it is issued unless appealed or reviewed upon the motion of the commission. A decision of the commission shall become final upon issuance.

These rules are intended to implement Iowa Code section 17A.3(1)"a" and "b" and 1983 Iowa Acts, House File 196.

## HEALTH DATA COMMISSION[465] (cont'd)

CHAPTER 3  
ADMINISTRATIVE RULES**465—3.1(70GA, HF196) Petition for adoption, amendment, or repeal of administrative rules.**

**3.1(1)** A petition for rulemaking shall be filed with the Health Data Commission, 601 Locust, Suite 330, Des Moines, Iowa 50309. The petition should be mailed by certified mail return receipt requested or delivered in person. The petitioner may be requested to submit additional facts, views or data.

A petition for rulemaking which is filed shall contain:  
a. A caption in the following form:

BEFORE THE IOWA STATE HEALTH DATA COMMISSION

IN RE: _____ (interested person's name)	PETITION FOR RULEMAKING
REQUEST FOR _____ (adoption, amendment or repeal)	
OF RULE NUMBER _____ (if applicable)	DOCKET NO. _____ (filled in by Commission)

b. The petition shall state in separate numbered paragraphs the following:

- (1) Petitioner's name and address.
- (2) If the petitioner requests the adoption of an administrative rule, the petition shall contain a draft of the proposed rule and the statutory authority in the Code for its adoption or a summary of the content of the proposed rule.
- (3) If the petitioner requests the amendment of an existing administrative rule, the petition shall contain a typewritten copy of the existing rule, double spaced between the lines, with any material proposed to be deleted stricken in the text, and any new material underlined.
- (4) If the petitioner requests the repeal of an existing administrative rule, the rule proposed to be repealed shall be identified by a reference to the Iowa Administrative Code giving the number or letter.
- (5) The reasons for seeking the requested action in detail, including any facts, views, data or arguments relevant.
- (6) The nature of petitioner's interest in the subject matter. This requirement shall not be construed to make a favorable decision with regard to the petitioner's request for rulemaking contingent upon the showing of a personal stake or interest apart from that of the general public.
- (7) The signature of the petitioner or a duly authorized officer of the petitioner if it is a corporation or other legal entity.

**3.1(2)** Procedure after petition filed. Upon receipt of a petition, the commission shall take the petition under advisement. It may request written memoranda from personnel within the departments of health, insurance, or human services and input from interested persons outside of the commission elaborating upon the reasons for the requested rule activity. The response of the commission shall be made within sixty days following the date on which the petition was received by the commission. The commission's disposition of the request shall be made in one of the following forms:

a. A written denial of the requested rule activity setting forth the reasons for such denial.

b. A written communication to the petitioner indicating the department's initiation of procedures to implement the proposed rule activity as provided in Iowa Code section 17A.4.

**465—3.2(70GA, HF196) Oral presentations on proposed rules.** When requested in writing, not later than twenty days after Notice of Intended Action is published in the Iowa Administrative Bulletin, by twenty-five interested persons, a governmental subdivision, the administrative rules review committee, an agency, or an association having not less than twenty-five members, or upon discretion of the commission, the commission will schedule a hearing for receipt of oral presentations on proposed rules.

**3.2(1)** Oral presentations. Any person wishing to make an oral presentation at a public hearing is encouraged to request to do so in writing at least twenty-four hours prior to the public hearing. Those persons filing a request to make oral comments twenty-four hours in advance shall be afforded the opportunity to make their presentations prior to those persons not filing a timely request. Whenever possible, a speaker shall also submit in written form that testimony given in an oral presentation.

**3.2(2)** Presiding officer. The commission or a presiding officer appointed by the commission shall preside over the public hearing. During the hearing, the commission or presiding officer is authorized to:

- a. Open the hearing and receive oral presentations.
- b. Review rule(s) under adoption, amendment or repeal and provide an opening statement which reflects the commission's thoughts as to its proposed action including the intended effect or purpose of proposed rule changes.
- c. Set a time limit on individual oral presentations in order to allow all those who are present and wish to make a presentation an opportunity to do so within the time available for the hearing.
- d. Exclude any individual who is either disruptive or obstructive to the hearing.
- e. Place into the official public record written comments which are or will be submitted.
- f. Adjourn the hearing.
- g. Take any other action necessary to properly conduct the hearing.

These rules are intended to implement Iowa Code sections 17A.3(1)"a" and "b", 17A.7, and 1983 Iowa Acts, House File 196.

CHAPTER 4  
DECLARATORY RULINGS

**465—4.1(70GA, HF196) Petitions for declaratory rulings.** Any interested person or agency who is affected by any commission statutory provision, rule, or other written statement of law or policy, decision or order of the commission may file a petition for a declaratory ruling as to the applicability of such statutory provision, rule, or other written statement of law or policy, decision, or order to that person or agency. The petition shall be filed with the Health Data Commission, 601 Locust, Suite 330, Des Moines, Iowa 50309. The petition should be mailed by certified mail return receipt requested or delivered in person. Any written data or arguments including briefs may be submitted along with the petition. There shall be no opportunity for oral arguments in the matter unless deemed necessary by the commission in order to dispose of the petition.

## HEALTH DATA COMMISSION[465] (cont'd)

A petition for declaratory ruling which is filed shall contain:

a. A caption in the following form:

BEFORE THE IOWA STATE HEALTH DATA COMMISSION	
IN THE MATTER OF THE	
PETITION	OF
_____	PETITION FOR
(petitioner's name)	DECLARATORY RULING
FOR A DECLARATORY RULING ON	
_____	DOCKET NO. _____
(provide statute or rule number or other matter)	(filled in by Commission)

b. The petition shall state in separate numbered paragraphs the following:

- (1) Petitioner's name and address.
- (2) State clearly the question or questions upon which the petitioner requests a declaratory ruling.
- (3) Specifically identify the statute, rule, written statement of law or policy, decision or order and the particular aspect of it to which the request is addressed.
- (4) State clearly and particularly all relevant facts which give rise to the request for a declaratory ruling.
- (5) State the nature of petitioner's interest in the subject matter.
- (6) The signature of the petitioner or by a duly authorized officer of the petitioner, if it is a corporation or other legal entity.

**465—4.2(70GA, HF196) Dismissal.** The commission may, in its discretion, dismiss the petition for any reason which it deems just and proper, including, but not limited to, the following:

**4.2(1)** The subject matter of the requested declaratory ruling is one in which the commission has no authority to issue a binding decision or the petitioner is not an interested party.

**4.2(2)** The petition does not state with enough specificity the factual situation involved or the question presented such that the commission can:

- a. Determine what the question is, or
- b. Respond with a specific ruling that will be binding upon the parties.

**4.2(3)** The factual or legal issues are so complex that a declaratory ruling is not feasible.

**4.2(4)** The subject matter is in litigation in the court or by administrative hearing.

**4.2(5)** Dismissal of the petition is necessary to assure an adequate allocation of the commission's resources available for the issuance of declaratory rulings to petitions raising questions of greater public importance or of greater urgency.

**4.2(6)** The petition presents a difficult question upon which the commission has had insufficient time or available resources to develop a fully matured and reasoned opinion.

**4.2(7)** The petitioner presents an issue upon which the issuance of a declaratory ruling has been rendered unnecessary as a result of a change in circumstances, fact, or law.

**4.2(8)** The petitioner discloses that the petitioner has no interest in the subject matter of the requested declaratory ruling beyond mere curiosity.

**4.2(9)** The petitioner presents an issue that is more properly resolved in a contested case proceeding.

**4.2(10)** The petitioner requests a declaratory ruling which, though technically binding only upon the commis-

sion and the petitioner, would necessarily determine the legal rights of other persons who have not filed such a petition and whose position on the issue may fairly be presumed to be adverse to the petitioner, or who are unrepresented in the declaratory ruling proceeding.

**4.2(11)** The petition is improper because it does not substantially comply with the form prescribed in rule 4.1(70GA, HF196).

**465—4.3(70GA, HF196) Response to petition.** The written response to the petition either in the form of a declaratory ruling or a denial of such shall be signed by two of the commissioner members of the commission and sent to the petitioner within thirty days following the date on which the petition was received by the commission. A denial of a petition for declaratory ruling shall include an explanation of the reasons for the denial.

These rules are intended to implement Iowa Code sections 17A.3(1)"a" and "b", 17A.9, and 1983 Iowa Acts, House File 196.

[Filed 10/4/83, effective 11/30/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4183****HEALTH DEPARTMENT[470]**

BOARD OF PHYSICAL AND OCCUPATIONAL  
THERAPY EXAMINERS

Pursuant to the authority of Iowa Code sections 147.76 and 148B.7, the Board of Physical and Occupational Therapy Examiners hereby amends rule 470—138.206 (148B) of the Iowa Administrative Code by adding a new subrule. The rule was adopted October 4, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin July 20, 1983 as ARC 3925.

The rule provides a procedure for an occupational therapy assistant from another state to be licensed in Iowa by waiver.

The rule is the same as published under Notice of Intended Action.

The rule change is intended to implement Iowa Code section 148B.6.

The rule shall become effective November 30, 1983.

Rule 470—138.206(148B) is amended by adding the following new subrule:

**138.206(5)** An applicant for a license as an occupational therapy assistant after December 30, 1981, who has not been licensed in another state but who has successfully completed the registration examination of the Professional Examination Service or Psychological Corporation for occupational therapy assistants, shall show proof of practice for at least one of the past five years and provide evidence of having completed seven and one-half hours of continuing education relating to the practice of an occupational therapy assistant within the year previous to the application date, may be licensed by waiver. Individuals who do not meet these requirements will be licensed by examination provided by the board. This does not apply to individuals who have graduated from an accredited occupational therapy assistant program within the last twelve months prior to the application date.

[Filed 10/6/83, effective 11/30/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4199****HEALTH DEPARTMENT[470]****BOARD OF PSYCHOLOGY EXAMINERS**

Pursuant to the authority of Iowa Code sections 147.36 and 147.76, the Board of Psychology Examiners hereby rescinds the existing subrule 140.8(8) and adopts a new subrule. The Board adopted the new subrule August 10, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin May 11, 1983 as ARC 3730.

The rule change limits the number of times that a person may apply for re-examination for the psychology board examination to not more than three times.

The rule change is the same as published under notice except that the words "September 1, 1983" were deleted and "January 1, 1984" were inserted.

The rule is intended to implement Iowa Code section 147.36.

The rule change shall become effective November 30, 1983.

Subrule 140.8(8) is rescinded and the following adopted in lieu thereof:

**140.8(8)** Beginning January 1, 1984, persons determined by the board not to have performed satisfactorily may apply for re-examination no more than three times.

[Filed 10/7/83, effective 11/30/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4184****HEALTH DEPARTMENT[470]****BOARD OF COSMETOLOGY EXAMINERS**

Pursuant to the authority of Iowa Code section 157.14, the Board of Cosmetology Examiners hereby rescinds subrule 149.2(5) of the Iowa Administrative Code and adopts a new subrule. The rule was adopted October 5, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin July 20, 1983 as ARC 3927.

The rule conforms with House File 500, enacted by the Seventieth General Assembly, by permitting a cosmetology school operated by an area community college prior to September 1, 1982 to continue to operate with only one instructor per fifteen students.

The rule is the same as published under Notice of Intended Action.

The rule is intended to implement Iowa Code section 157.8.

The rule shall become effective November 30, 1983.

Subrule 149.2(5) is rescinded and the following adopted in lieu thereof:

**149.2(5)** The number of instructors for each school shall be based upon total enrollment, with a minimum of two instructors employed on a full-time basis for up to thirty students and an additional instructor for each additional fifteen students. However, a school operated by an area community college prior to September 1, 1982

with only one instructor per fifteen students is not subject to this subrule and may continue to operate with the ratio of one instructor to fifteen students.

[Filed 10/6/83, effective 11/30/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4185****HEALTH DEPARTMENT[470]****BOARD OF****COSMETOLOGY EXAMINERS**

Pursuant to the authority of Iowa Code section 258A.2, the Board of Cosmetology Examiners hereby amends rule 151.3(258) of the Iowa Administrative Code by adding a new subrule. The rule was adopted October 5, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin July 20, 1983 as ARC 3928.

The subrule prohibits persons or companies which are primarily engaged in the sale of cosmetology products from providing continuing education for the purpose of license renewal.

The rule is the same as published under Notice of Intended Action except for clarification the words "for the purpose of license renewal" were added.

The rule is intended to implement Iowa Code section 258A.2.

The rule shall become effective November 30, 1983.

Rule 470—151.3(258A) is amended by adding the following new subrule:

**151.3(4)** Persons or companies which are primarily engaged in the sale of cosmetology products are not eligible to provide continuing education for the purpose of license renewal.

[Filed 10/6/83, effective 11/30/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83

**ARC 4187****HEALTH DEPARTMENT[470]****BOARD OF BARBER EXAMINERS**

Pursuant to the authority of Iowa Code sections 147.76 and 258A.2, the Board of Barber Examiners hereby amends Chapter 152 of the Iowa Administrative Code. The rule was adopted October 5, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin August 17, 1983 as ARC 3990.

The rule changes the required number of hours to complete continuing education for reinstatement of an inactive license from eight to six per year and changes the name of the section to professional licensure.

## HEALTH DEPARTMENT[470] (cont'd)

The rule is the same as published under Notice of Intended Action.

The rule is intended to implement Iowa Code sections 147.76 and 258A.2.

The rule shall become effective November 30, 1983.

ITEM 1. Rule 470—152.105(258A) is amended to read as follows:

**470—152.105(258A) Report of licensee.** Each licensee shall file, with the renewal application, a signed report of continuing education not later than May 1 of each year beginning May 1, 1980. The report shall include the hours completed during the preceding calendar year. The renewal application and signed report of continuing education shall be sent to the Iowa State Department of Health, ~~Licensing and Certification~~ *Professional Licensure* Section, Board of Barber Examiners, Lucas State Office Building, Des Moines, IA 50319.

ITEM 2. Rule 470—152.106(258A) is amended to read as follows:

**470—152.106(258A) Attendance record report.** The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance and send a signed copy of such attendance record to the secretary of the board upon completion of the educational activity, but in no case later than January 31 of the following calendar year. The report shall be sent to the Iowa State Department of Health, ~~Licensing and Certification~~ *Professional Licensure* Section, Board of Barber Examiners, Lucas State Office Building, Des Moines, IA 50319.

ITEM 3. Subrule 152.109(2), paragraph "b" is amended to read as follows:

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

ITEM 4. Rule 470—152.201(258A) is amended to read as follows:

**470—152.201(258A) Complaint.** A complaint of a licensee's professional misconduct shall be made in writing by any person to the Board of Barber Examiners, ~~Licensing and Certification~~ *Professional Licensure* Section, Lucas State Office Building, Des Moines, IA 50319. The complaint shall include complainant's address and phone number, be signed and dated by the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter.

ITEM 5. Rule 470—152.203(258A) is amended to read as follows:

**470—152.203(258A) Investigation of complaints or malpractice claims.** The chair of the board of barber examiners shall assign an investigation of a complaint or malpractice claim to a member of the board who will be known as the investigating board member or may request the state department of health to investigate the complaint or malpractice claim. The investigating board member or employee of the department may request information from any peer review committee which may be established to assist the board. The investigating board member or employee of the department may consult with an administrative hearing officer or assistant attorney general concerning the investigation on evidence produced from the investigation. The investigating board

member, if the the board member investigates the complaint, the director of the ~~licensing and certification~~ *professional licensure* section, an administrative hearing officer or an assistant attorney general if the department investigates the complaint, shall make a written determination whether there is probable cause for a disciplinary hearing. The investigating board member shall not take part in the decision of the board, but may appear as a witness.

[Filed 10/6/83, effective 11/30/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## ARC 4186

## HEALTH DEPARTMENT[470]

## BOARD OF BARBER EXAMINERS

Pursuant to the authority of Iowa Code sections 147.76 and 258A.2, the Board of Barber Examiners hereby amends Chapter 152, of the Iowa Administrative Code by adding new rule 470—152.110(258A). The rule was adopted October 5, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin August 3, 1983 as ARC 3951.

The rule provides a procedure for reinstatement of a lapsed barber license.

The rule is the same as published under Notice of Intended Action.

The rule is intended to implement Iowa Code sections 258A.2 and 147.76.

The rule shall become effective November 30, 1983.

Chapter 152 is amended by adding the following new rule:

**470—152.110(258A) Reinstatement of lapsed license.** A licensee who fails to renew a license within sixty days after the expiration date of said license and who fails to obtain an exemption under rule 152.108(258A) shall be considered to have allowed the license to lapse.

**152.110(1)** A person who has allowed his license to lapse may apply to the board for reinstatement of the license.

**152.110(2)** Reinstatement may be granted by the board if the applicant:

- a. Submits written application for reinstatement to the board on forms provided by the board; and
- b. Pays all of the renewal fees then due; and
- c. Pays the penalty fee that is assessed by the board for failure to renew; and
- d. Provides evidence of completion of continuing education during the period the license had lapsed.

(1) If the license had lapsed for three years or less, the applicant for reinstatement shall complete a total number of hours of accredited continuing education computed by multiplying by six the number of years the license had lapsed;

(2) If the license had lapsed for four years, the applicant shall complete at least twenty-four hours of accredited continuing education.

(3) If the license had lapsed for five years, the applicant shall complete at least thirty hours of accredited continuing education.

## HEALTH DEPARTMENT[470] (cont'd)

(4) If the license had lapsed for more than five years, the applicant shall complete a minimum of forty-five hours of accredited continuing education plus six hours for each additional year that the license had lapsed.

152.110(3) In lieu of the foregoing provisions of subrule 152.110(2)"d", the applicant may furnish evidence of successful completion of the Iowa state license examination conducted within one year immediately prior to the submission of the application for reinstatement.

[Filed 10/6/83, effective 11/30/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83

**ARC 4205****HUMAN SERVICES  
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 225C.6 the Mental Health and Mental Retardation commission adopted the IAC relating to community mental health standards (chapter 33). These rules were adopted by the Mental Health and Mental Retardation commission October 4, 1983.

Notice of Intended Action regarding these rules was published August 31, 1983 as ARC 4005.

These rule amendments update Iowa Code references, provide a definition of accreditation, establish conditions under which community mental health centers must apply for accreditation, and specify which accreditation by the Joint Commission on Accreditation of Hospitals will be accepted in lieu of a division survey.

These rules are identical to those placed on notice.

These rules are intended to implement Iowa Code sections 225C.6 and 230A.16.

These rules will be effective December 1, 1983.

ITEM 1. Implementing authority for all rules is corrected in chapter 33 as follows:

33.1 (69GA, ch 78) (225C, 230A)

33.2 (69GA, ch 78) (225C, 230A)

33.3 (69GA, ch 78) (225C, 230A)

33.4 (69GA, ch 78) (225C, 230A)

33.5 (69GA, ch 78) (225C, 230A)

ITEM 2. Rule 33.1 (225C, 230A) is amended by renumbering subrules 33.1(1) to 33.1(21) as 33.1(2) to 33.1(22) and inserting a new subrule as follows:

33.1(1) "Accreditation" means the decision made by the commission that the center has met conditions of subrules 33.5(7) "a" or "b" or 33.5(13).

ITEM 3. Subrules 33.5(13) and (14) are amended to read as follows:

33.5(13) The commission shall accept the accreditation of a community mental health center by the joint commission on accreditation of hospitals (JCAH) as a community mental health service program in lieu of accreditation under these standards based on review and evaluation of the center by the division.

33.5(14) A center which has received accreditation from the committee on mental hygiene prior to January 1, 1982, shall remain accredited until it has been surveyed by the division and the commission makes a decision based on the survey reports or until the commission has accepted the JCAH accreditation report.

ITEM 4. Chapter 33 is amended by adding a new rule as follows:

**498—33.6(225C, 230A) Application for accreditation.**

33.6(1) The center shall submit an application to the division in order to be considered for accreditation by the commission, using form number MH-5302-0, Application for Accreditation as a Community Mental Health Center. The application shall be submitted whether the center wants to be considered for accreditation based on the review and evaluation by the division or based on the JCAH accreditation report. The application shall state the service(s) for which the center wants to be accredited.

a. Application by a center not accredited by the committee on mental hygiene or the commission. A center which has not been accredited by either of these two bodies shall apply to the division for accreditation by the commission when the center makes the decision to be considered for accreditation.

b. Application by a center accredited by the committee on mental hygiene prior to January 1, 1982 or by the commission after October 6, 1982. A center which has been accredited shall apply to the division for accreditation upon receipt of notice from the division of the site survey schedule within the timeframes specified in the notice. The division shall be notified immediately if an accredited center decides not to apply for accreditation.

c. Application for accreditation of an additional service. An accredited center shall apply to the division for accreditation of a service for which it has not previously been accredited. Application shall be made when the center makes the decision to have the additional service considered for accreditation by the commission.

d. Application after expiration or denial of accreditation if the center's accreditation has expired or the center has been denied accreditation by the commission. Application shall be made when the center makes the decision to be reconsidered for accreditation by the commission.

33.6(2) Reserved.

These rules are intended to implement Iowa Code sections 225C.6 and 230A.16.

[Filed 10/7/83, effective 12/1/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4209****HUMAN SERVICES  
DEPARTMENT[498]**

Pursuant to the requirements of Executive Order No. 4, the authority of Iowa Code sections 8.19, 8.31 to 8.33, 8.38, and the Constitutional requirements of Article III, section 24, and Article VII, the Department of Human Services hereby emergency adopts and implements amendments and revisions to existing rules, so as to avert the constitutionally prohibited shortfall in the general treasury.

[See also ARC 4207 herein]

The following rule amendments are intended to implement the mandated reductions in line item appropriations by reducing the spending obligation of the department.



## HUMAN SERVICES DEPARTMENT[498] (cont'd)

Chapter 52 — Each residential care facility's per diem rate shall be reduced 4.2 percent prior to payment.

Chapters 77, 78 and 79 — Implementing conditions for medical assistance reimbursement of ambulatory surgical centers to reduce surgery costs.

Chapter 78 — Require hospital stays to be determined as medically necessary prior to admission.

Chapter 79 — Reduce medical assistance reimbursement to physicians, hospitals, and acquisition costs of prescribed drugs by 4.2 percent. Reduce all other medical care providers except Iowa Veterans Home, state hospitals, state mental health institutes, intermediate care facilities and intermediate care facilities for the mentally retarded by 6.7 percent.

Chapter 81 — Eliminate the incentive and inflation factors in determining the prospective payment rate for intermediate care facilities.

Chapter 137 — Reduce rates paid for foster family care and specialized care by 2.6 percent.

Chapter 145 — Reduce payment of claims for foster care, including shelter care, and foster group care 2.6 percent. Reduce claims for services funded through home-based treatment 4.2 percent. Reduce payment of claims for local purchased services 1 percent.

Chapter 148 — The maximum and contractual cost of care for in-home health service shall be reduced 4.2 percent.

Chapter 160 — Allows the renegotiation of displaced homemaker contracts when the department lacks funds necessary to fulfill its fiscal responsibility.

Chapter 161 — Allows the renegotiation of domestic abuse contracts when the department lacks funds necessary to fulfill its fiscal responsibility.

In accordance with Iowa Code section 17A.4(2), the department finds that notice and public participation are impracticable and contrary to the public interest at this time. The department is statutorily and constitutionally required to immediately reduce spending obligations to the level of constitutionally authorized appropriations. The department may not constitutionally deficit spend, which illegal action would occur during the notice and comment period of Iowa Code section 17A.4(2).

These rules were adopted by the Council on Human Services on September 29, 1983 and take effect on December 1, 1983.

EDITOR'S NOTE: The text of these rules is identical to the rules which were published under Notice of Intended Action, IAB, October 12, 1983, as separate chapters.

[For complete text of these rules, see ARC 4207 herein]

[Filed without Notice 10/7/83, effective 12/1/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4182****NURSING HOME ADMINISTRATORS,  
BOARD OF EXAMINERS[600]**

Pursuant to the authority of Iowa Code section 135E.9, the Board of Examiners for Nursing Home Administrators hereby amends the rules relating to license renewal and license issuance found in chapter 2 of the Iowa Administrative Code.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin July 20, 1983 as ARC 3923. The rule was adopted October 5, 1983.

The rules provide a procedure for biennial renewal of license, provide limitations for appointment of a provisional administrator, and provide procedure for licensure by equivalency.

The rules are the same as published under notice except that Item 2 was changed to strike the words "at the discretion of the board" in the second sentence. Item 2 was further changed to strike from the fifth sentence the words "a fee of thirty dollars" and to insert the words "the required fee".

The rules are intended to implement Iowa Code section 135E.9.

The rules shall become effective December 1, 1983.

ITEM 1. Subrule 2.4(1) is rescinded and the following adopted in lieu thereof:

**2.4(1) Renewal of license.**

a. The period of licensure is January 1 of each even-numbered year to December 31 of the next odd-numbered year.

b. Each applicant for the renewal of license shall be mailed, at the applicant's last known address, the application at least thirty days prior to the expiration date on the current license.

c. Any administrator who fails to renew a license after thirty days but before sixty days following the expiration shall pay a penalty of thirty dollars in addition to the renewal fee upon filing the application for renewal.

d. Any administrator who fails to renew a license after sixty days following the expiration shall pay a penalty of one hundred dollars in addition to the renewal fees and also successfully retake the state examination. The one hundred dollar penalty fee will include the examination fee.

ITEM 2. Subrule 2.6(3) is rescinded and the following adopted in lieu thereof:

**2.6(3) Provisional administrator.** In the event that an existing nursing home loses the services of its licensed administrator and the home is unable to secure another licensed administrator, an unlicensed person may be employed as a provisional administrator for a period of three months. A three-month extension may be granted. A nursing home shall not have more than a total of two three-month provisionals in any twelve-month period. The owner of the nursing home shall apply to the board within fifteen days after the home has lost its licensed administrator for a provisional letter. The person appointed by the nursing home owner shall complete a regular application form furnished by the board. The application will be accompanied by the required fee for the examination of credentials.

ITEM 3. Rule 2.7(147) is rescinded and the following adopted in lieu thereof:

**600—2.7(147) Equivalency.**

2.7(1) Applicants for licensure to practice as a nursing home administrator in the state of Iowa who hold a currently valid license in good standing from another state may make application for licensure by equivalency with the board. Equivalency may be granted if the applicant complies with the following minimum licensing criteria:

**NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS[600] (cont'd)**

a. Passed the national association of boards of examiners for nursing home administrators (NAB) or professional examination service (PES) examinations using Iowa's current examination score requirements; and

b. Passed the current Iowa state licensure examination; and

c. Practiced full time as a licensed nursing home administrator in a nursing home for at least four years of the previous five years immediately prior to application. Applicant must have been actively licensed for at least five years. Applicant must furnish official documentation of proof of practice from the state agency responsible for licensing of nursing home facilities of the state in which they have practiced.

d. In lieu of the experience requirement in paragraph "c" above, an applicant may substitute the successful completion of the curriculum of the program in long term health care administration offered by an accredited college or university with an associate of arts or science degree or its equivalent as determined by the board. The curriculum shall include:

6 semester (9 quarter) hours of social sciences; and

6 semester (9 quarter) hours of English or communications or both; and

5 semester (8 quarter) hours of mathematics or science or both; and

10 semester (15 quarter) hours of business management, accounting or business law or both or any combination thereof; and

4 semester (6 quarter) hours of gerontology; and

13 semester (20 quarter) hours of health care or long term health care administration or both; and

12 semester (18 quarter) hours of long term health care practicum (720 clock hours). Substitution of one year of long term health care administration experience may be allowed at the discretion of the board; and

4 semester (5 quarter) hours of electives; total of 60 semester (90 quarter) hours.

2.7(2) Reserved

[Filed 10/6/83, effective 12/1/83]

[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83

**ARC 4189**

**PUBLIC INSTRUCTION  
DEPARTMENT[670]**

Pursuant to the authority of Iowa Code sections 257.9(2) and 281.3(2), the Iowa Department of Public Instruction adopts on October 6, 1983, the amendments to Chapter 12, "Special Education", Iowa Administrative Code.

Notice of Intended Action was published in IAB, August 31, 1983, as ARC 4014.

Change from such notice is as follows: 12.3(4)"c"(2).

This rule will become effective November 30, 1983.

ITEM 1. Amend subrule 12.3(4) by striking paragraph "c" and inserting in lieu thereof the following:

c. "Behaviorally disordered" is the inclusive term for patterns of situationally inappropriate behavior which deviate substantially from behavior appropriate to one's age and significantly interfere with the learning process, interpersonal relationships, or personal adjustment of the pupil to such an extent as to constitute a behavioral disorder.

(1) Clusters of behavior characteristic of pupils who are behaviorally disordered include: Cluster I — Significantly deviant disruptive, aggressive or impulsive behaviors; Cluster II — Significantly deviant withdrawn or anxious behaviors; Cluster III — Significantly deviant thought processes manifested with unusual communication or behavioral patterns or both; and Cluster IV — Significantly deviant behavior patterns characterized by deficits in cognition, communication, sensory processing or social participation or a combination thereof that may be referred to as autistic behavior. A pupil's behavior pattern may fall into more than one of the above clusters.

(2) The determination of significantly deviant behavior is the conclusion that the pupil's characteristic behavior is sufficiently distinct from the pupil's peer group to qualify the pupil as requiring special education programs or services on the basis of a behavioral disorder. The behavior of concern shall be observed in the school setting for school-aged pupils and in the home or center-based setting for preschool-aged pupils. It must be determined that the behavioral disorder is not maintained by primary intellectual, sensory, cultural or health factors.

(3) In addition to those data required within the comprehensive educational evaluation for each pupil requiring special education, the following areas of data collection shall be gathered when identifying a pupil as behaviorally disordered which describe the qualitative nature, frequency, intensity, and duration of the behavior of concern. If it is determined that any of the areas of data collection are not relevant in assessing the behaviors of concern, documentation must be provided explaining the rationale for such a decision.

"Setting analysis" data includes: Information gathered through informal observations, anecdotal record review and interviews describing the setting from which a pupil was referred; documented prior attempts to modify the pupil's educational program so as to make behavioral and academic achievement possible in the current placement; and, social functioning data that includes information, gathered from sources such as teacher interviews and sociometric measures, regarding the referred pupil's interaction with the pupil's peers.

"Pupil behavioral data" includes: Measures of actual behavior that include the specific recording, through systematic formal observations, of a pupil's behavior including the frequency of behaviors of concern; and, measures of reported behavior that include information gathered through checklists or rating scales and interviews that document the perceptions of school personnel regarding the behavioral pattern of the referred pupil and information regarding the perception of the pupil's home and school behavior obtained from the parent or surrogate parent.

"Individual trait data" includes information about the unique personal attributes of the pupil. This information, gathered through pupil and teacher interviews and relevant personality assessments, describes any distinc-

PUBLIC INSTRUCTION DEPARTMENT[670] (cont'd)

tive patterns of behavior which characterize the pupil's personal feelings, attitudes, moods, perceptions, thought processes, and significant personality traits.

ITEM 2. Further amend subrule 12.3(4) by deleting paragraph "f" in its entirety.

ITEM 3. Rule 670—12.19(281) is amended by deleting subrule 12.19(3) in its entirety.

This rule is intended to implement Iowa Code sections 257.9(2) and 281.2(1), and 1983 Iowa Acts, House File 133, sections 1 and 2.

[Filed 10/7/83, effective 11/30/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

**ARC 4194**

**REAL ESTATE COMMISSION[700]**

Pursuant to the authority of Iowa Code section 117.9, the Iowa Real Estate Commission adopts the amendments to Chapter 4, "Discipline and Hearing Procedures" on the 23rd day of September, 1983, Iowa Administrative Code.

Notice of Intended Action was published in IAB, August 17, 1983, Volume VI, Number 4, as ARC 3971.

This rule is to clarify confusing language, require a majority vote of the entire commission membership to find guilt or penalty in a disciplinary matter, and extend the time in which a respondent has in which to request a continuance.

This rule is identical to that noticed with the addition of the term "or penalty" to 4.30(1).

This rule becomes effective December 2, 1983.

This rule is intended to implement Iowa Code section 117.35 and chapter 258A.

Subrule 4.18, item 8 is amended as follows:

8. A statement requiring the respondent within the period of ten days after receipt of the notice of hearing to: Acknowledge receipt of the notice of hearing on the form provided with the notice.

~~State whether the respondent will require an adjustment of the date and time of the hearing; and~~

9. A statement requiring the respondent to furnish the commission with a list of potential witnesses, and their current addresses which the respondent intends to have called. *The answer required in item 7 and the list of potential witnesses, if any, as required in item 9 shall be provided to the executive director no later than ten days prior to the date set for hearing.*

Subrule 4.30(1) is amended as follows:

4.30(1) When three or more members of the commission preside over the reception of the evidence at the hearing, the commission's decision is a final decision. *A finding of guilt or penalty by the commission shall require a majority vote of the entire commission.*

[Filed 10/7/83, effective 12/2/83]  
[Published 10/26/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 10/26/83.

## SUMMARY OF OPINIONS OF THE ATTORNEY GENERAL

THOMAS J. MILLER

September, 1983BEER AND LIQUOR CONTROL

Extention of Credit. Iowa Code §§ 123.45, 123.49(2)(c), and 537.1301(15) (1983). Barter-exchange trade credits, to the extent that they defer payment, cannot be used as payment for alcoholic beverages or beer. (Walding to Gallagher, Director, Iowa Beer and Liquor Control Department, 9/7/83) #83-9-3(L)

CORPORATIONS

Reinstatement; payment of delinquent license fees and filing of delinquent annual reports in order to execute Articles of Dissolution. Iowa Code § 496A.89; Iowa Code § 496A.130; Iowa Code § 496A.128; Iowa Code § 496A.122; Iowa Code § 496A.123(3). A corporation is required to pay delinquent license fees and file delinquent annual reports in order to execute articles of dissolution pursuant to Iowa Code § 496A.89. However, a corporation which has had its certificate of incorporation cancelled is not required to be reinstated pursuant to Iowa Code § 496A.130 before it may file such reports or pay such fees. (Nassif to Odell, Secretary of State, 9/12/83) #83-9-4(L)

COUNTIES AND COUNTY OFFICERS

Treasurer: Collection of sewer service charges at tax sale and redemption therefrom. Iowa Code Chapters 446, 447; § 384.84(1) (1983). Sewer service charges certified to the county auditor as unpaid are collected by the county treasurer at tax sale with delinquent ordinary taxes for a single sum. One entitled to redeem may do so only by paying to the treasurer the full amount for which sold plus costs, penalty, etc. (Peterson to Short, Lee County Attorney, 9/15/83) #83-9-8(L)

DRAINAGE DISTRICTS

Interest rate on drainage district warrants not paid for want of funds. Iowa Code Sections 74.1(1), 74.2, 74A.2, 74A.6(1), 74A.6(2), 202.6, 454.19, 455.110, 455.198, 455.213 (1983). The maximum interest rate on unpaid drainage district warrants is set by the statutory committee pursuant to the first sentence of § 74A.6(2). The interest rate applicable to anticipatory warrants does not apply to such warrants unless they are issued specifically as anticipatory warrants. (Benton to Neighbor, 9/7/83) #83-9-2(L)

## ENVIRONMENTAL QUALITY

Beverage Container Deposit Law. Iowa Code Sections 455C.1, 455C.2, 455C.3, 455C.13, 455C.7 (1983). A distributor of beverages may enter an agreement with a dealer that the dealer will not present empty house brand containers back to the distributor for reimbursement. The distributor cannot, by entering an agreement with a dealer, avoid its statutory duties to accept and pick up empty containers from a redemption center for a dealer served by the distributor and to pay the redemption center the refund value and handling fee. (Ovrom to Rodgers, State Senator, 9/21/83) #83-9-9(L)

## SCHOOLS

Gifts. Iowa Code §§ 279.8, 279.42, and 280.14 (1983). Iowa law does not require school districts to maintain funds raised by outside organizations in the school activity account. A school district board may regulate fund-raising activity during school and school sponsored events and it may regulate the use of funds derived from those sources. (Fleming to Jensen, State Senator, 9/1/83) #83-9-1(L)

## STATE OFFICERS AND DEPARTMENTS

Licenses: Refund. Iowa Code § 120.8; S.F. 530, § 11. Watchmakers who paid administrative fees for two-year regulatory licenses are not entitled to refund where license requirements repealed, absent statutory provision for refund. (Osenbaugh to Halvorson, 9/12/83) #83-9-7(L)

## TOWNSHIPS

Cemeteries. Iowa Code Ch. 359 (1983); Sections 144.34; 359.33; 359.37. (1) Townships may levy and expend taxes for maintaining private cemeteries in the township pursuant to § 359.33. (2) Townships do not have authority to issue deeds for lots in private cemeteries unless those cemeteries have been dedicated to the township. (3) Townships are not required to maintain private cemeteries in the township. (4) Townships are required to maintain township cemeteries. (5) Townships cannot convey township cemetery property that has been used for burials to a third party for another use, such as farming. (6) Remains in township cemetery lots may be moved pursuant to § 144.34. (Weeg to Neighbor, Jasper County Attorney, 9/12/83) #83-9-6(L)

Cemeteries; Township's authority regarding land dedicated for cemetery purposes. Iowa Code Ch. 359 (1983); Section 359.37. A township is in most situations not authorized to farm land dedicated to the township for cemetery purposes because that use is generally inconsistent with the dedication. (Weeg to Huffman, Pocahontas County Attorney, 9/12/83) #83-9-5(L)

STATUTES CONSTRUED

<u>Code, 1983</u>	<u>Opinion</u>	<u>70th G.A.</u>	<u>Opinion</u>
74.1,2	83-9-2(L)	S.F. 530, § 11	83-9-7(L)
74A.2	83-9-2(L)		
74A.2(1)(2)	83-9-2(L)		
120.8	83-9-7(L)		
123.45	83-9-3(L)		
123.49(2)(c)	83-9-3(L)		
144.34	83-9-6(L)		
202.6	83-9-2(L)		
279.8	83-9-1(L)		
279.42	83-9-1(L)		
280.14	83-9-1(L)		
359.33	83-9-6(L)		
359.37	83-9-5(L)		
359.37	83-9-6(L)		
384.84(1)	83-9-8(L)		
446	83-9-8(L)		
447	83-9-8(L)		
454.19	83-9-2(L)		
455.110	83-9-2(L)		
455.198	83-9-2(L)		
455.213	93-9-2(L)		
455C.1	93-9-9(L)		
455C.2	93-9-9(L)		
455C.3	83-9-9(L)		
455C.7	83-9-9(L)		
455C.13	83-9-9(L)		
496A.89	83-9-4(L)		
496A.122	93-9-4(L)		
496A.123	83-9-4(L)		
496A.128	83-9-4(L)		
496A.130	83-9-4(L)		
537.1301(15)	83-9-3(L)		

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