



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

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

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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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## Schedule for Rule Making 1998

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 26 '97	Jan. 14 '98	Feb. 3	Feb. 18	Feb. 20	Mar. 11	Apr. 15	July 13
Jan. 9 '98	Jan. 28	Feb. 17	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sept. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sept. 21
Mar. 20	Apr. 8	Apr. 28	May 13	May 15	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	June 26	July 15	Aug. 19	Nov. 16
May 15	June 3	June 23	July 8	July 10	July 29	Sept. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sept. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sept. 30	Dec. 28
June 26	July 15	Aug. 4	Aug. 19	Aug. 21	Sept. 9	Oct. 14	Jan. 11 '99
July 10	July 29	Aug. 18	Sept. 2	Sept. 4	Sept. 23	Oct. 28	Jan. 25 '99
July 24	Aug. 12	Sept. 1	Sept. 16	Sept. 18	Oct. 7	Nov. 11	Feb. 8 '99
Aug. 7	Aug. 26	Sept. 15	Sept. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '99
Aug. 21	Sept. 9	Sept. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '99
Sept. 4	Sept. 23	Oct. 13	Oct. 28	Oct. 30	Nov. 18	Dec. 23	Mar. 22 '99
Sept. 18	Oct. 7	Oct. 27	Nov. 11	Nov. 13	Dec. 2	Jan. 6 '99	Apr. 5 '99
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Nov. 27	Dec. 16	Jan. 20 '99	Apr. 19 '99
Oct. 16	Nov. 4	Nov. 24	Dec. 9	Dec. 11	Dec. 30	Feb. 3 '99	May 3 '99
Oct. 30	Nov. 18	Dec. 8	Dec. 23	Dec. 25	Jan. 13 '99	Feb. 17 '99	May 17 '99
Nov. 13	Dec. 2	Dec. 22	Jan. 6 '99	Jan. 8 '99	Jan. 27 '99	Mar. 3 '99	May 31 '99
Nov. 27	Dec. 16	Jan. 5 '99	Jan. 20 '99	Jan. 22 '99	Feb. 10 '99	Mar. 17 '99	June 14 '99
Dec. 11	Dec. 30	Jan. 19 '99	Feb. 3 '99	Feb. 5 '99	Feb. 24 '99	Mar. 31 '99	June 28 '99
Dec. 25	Jan. 13 '99	Feb. 2 '99	Feb. 17 '99	Feb. 19 '99	Mar. 10 '99	Apr. 14 '99	July 12 '99
Jan. 8 '99	Jan. 27 '99	Feb. 16 '99	Mar. 3 '99	Mar. 5 '99	Mar. 24 '99	Apr. 28 '99	July 26 '99

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
9	Friday, October 2, 1998	October 21, 1998
10	Friday, October 16, 1998	November 4, 1998
11	Friday, October 30, 1998	November 18, 1998

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

## PUBLICATION PROCEDURES

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FROM: Kathleen K. Bates, Iowa Administrative Code Editor  
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The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

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*Guide to Rule Making, June 1995 Edition*, available upon request to the Iowa Administrative Code Division,  
Lucas State Office Building, Fourth Floor, Des Moines, Iowa 50319.

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, October 13, 1998, at 10 a.m., and Wednesday, October 14, 1998, at 9 a.m. in Room 118, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

Bulletin

**ARTS DIVISION[222]**

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Operational policies and granting programs, 1.1 to 1.4, 2.2, 2.3, chs 3, 4 and 6, rescind chs 5, 7, 8 and 10 to 14, 18.2, 18.3, 18.4(2)"b" and "c," 18.6, 18.7, 20.4, 20.11, 20.12, 20.15, rescind chs 21, 24 and 25, Filed ARC 8338A ..... 9/23/98

**COMMUNITY ACTION AGENCIES DIVISION[427]**

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Community services block grant, 22.5(3), 22.7(3), 22.8(2), 22.8(3), 22.10, Notice ARC 8335A ..... 9/23/98

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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Board of behavioral science examiners, 30.1, 30.2(2), 30.2(4), 30.2(5), 30.2(7), 30.2(8), 30.3(1)"c," 30.3(2), 30.4(1)"c," 30.4(2), 30.4(2)"c," 30.5(3)"b," 30.5(6), 30.6(1) to 30.6(4), 30.8, 30.8(5), 30.9, 30.10(5), 30.10(6), 30.10(11), 31.1(3), 31.4(1), 31.8(4), Filed ARC 8321A ..... 9/9/98
- Licensing of funeral directors, 100.9(1), 100.10(3), 100.11(4)"b," 100.11(5)"b" and "f," 101.1(3)"a" and "b," 101.2, 101.2(1), 101.2(2), 101.2(4), 101.2(5), 101.2(5)"a" to "c," 101.2(10) to 101.2(15), 101.3(1)"c," "e" and "g," 101.3(2)"a" and "e," 101.3(2)"f"(1), 101.4(1) to 101.4(5), 101.4(7), 101.5(1)"c" to "e," 101.5(2), 101.6, 101.7, 101.98(3), 101.98(9), 101.98(12) to 101.98(15), 101.101(2), 101.101(4), 101.101(6), 101.101(7), 101.102(2), 101.102(4) to 101.102(6), 101.103(2), 101.200, 101.212 to 101.215, Filed ARC 8297A ..... 9/9/98
- Massage therapists, 130.1, 130.3(2) to 130.3(4), 130.4(1)"b"(3), 130.4(1)"c," 130.4(2)"a," 130.5(2), 130.5(2)"g," "i" and "j," 130.6(1), 130.6(2), 130.7, 130.8(1), 130.9, 130.10(12), 131.1(2), 131.1(7), 131.2(2), 131.2(6), 131.2(7), 131.3(3)"a" and "d," 131.4, 131.5, 131.7 to 131.19, Notice ARC 8347A ..... 9/23/98
- Board of examiners for nursing home administrators, 141.3(2)"a" and "b," 141.3(3), 141.7, Filed ARC 8345A ..... 9/23/98
- Board of podiatry examiners, 220.102, Filed ARC 8346A ..... 9/23/98

**PUBLIC HEALTH DEPARTMENT[641]**

- Reportable disease list, 1.2(1)"a," Notice ARC 8357A ..... 9/23/98
- Immunization schedule, 7.4(6), Notice ARC 8358A ..... 9/23/98
- Renovation, remodeling, and repainting—lead hazard notification process, 69.2 to 69.4, 69.4(2)"f" and "h," 69.4(3), 69.4(4), 69.5, 69.5(3), 69.6 to 69.9, Notice ARC 8318A ..... 9/9/98
- Lead professional certification, 70.2, 70.4(1)"e," 70.4(2)"k," 70.4(8) to 70.4(11), 70.5(2)"a" and "e," 70.6(2)"d"(6), 70.6(4)"h," 70.6(4)"h"(6), 70.6(6)"d" and "i," 70.6(7)"c"(6), 70.7 to 70.9, Notice ARC 8319A ..... 9/9/98
- Iowa domestic abuse death review team, ch 91, Notice ARC 8317A ..... 9/9/98
- Advanced cardiac life support requirement for physician medical directors, 132.1, 132.5(5)"a," 132.8(2), 132.8(10), 132.9(6), 132.15(3), 139.6(2), Notice ARC 8359A ..... 9/23/98

**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- General, 1.6(4), 3.11(3), 5.1(5)"c," 5.16(21), 13.13 to 13.26, 20.22(3), 26.19(5), Notice ARC 8320A ..... 9/9/98

**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Advertising; certificate of noncompliance from the college student aid commission, 1.24(7), 2.4, 2.44, 5.18, 5.19, Notice ARC 8349A ..... 9/23/98

**REVENUE AND FINANCE DEPARTMENT[701]**

- Excise tax; sales tax on services, 13.12, 17.31, 17.32, 19.12, 20.5(2)"d," 26.47, Notice ARC 8341A ..... 9/23/98
- Sales and use tax, 17.30, 18.24, 18.25(3), 18.34(2)"j," 18.49, 18.58(1), 18.59, 20.7(1)"c," 20.7(5), 32.4, Notice ARC 8308A .. 9/9/98
- Apportionment of income for resident shareholders of S corporations, 50.5, 50.7, Filed ARC 8307A ..... 9/9/98
- Condominiums classified as commercial or residential real estate, 71.1(4), 71.1(5), Notice ARC 8342A ..... 9/23/98
- Local option school infrastructure sales and service tax, ch 108, Notice ARC 8309A ..... 9/9/98

**TRANSPORTATION DEPARTMENT[761]**

- Iowa scenic byway program, ch 132, Filed ARC 8330A ..... 9/23/98
- Driver's licenses, 600.1, 600.2, 600.3(1), 600.4(4), 600.4(9), 600.12 to 600.14, 601.1(1), 601.2, 601.5, ch 602 title, 602.1, 602.1(1), 602.1(2), 602.2, 602.3(1), 602.4, 602.11(2), 602.13(1)"d," 602.13(2), 602.18 to 602.21, 602.24(2)"b," 602.25(2)"e," 602.26(1)"b" and "c," 602.26(2), 602.26(3)"b," 604.1(1), 604.1(2), 604.3(1), 604.7(2), 604.10(1), 604.12(2)"a," 604.31(2)"a," 604.40(2)"b," 605.1 to 605.5, 605.5(1), 605.5(5)"b," 605.26(1), 605.26(2)"c," 615.1, 615.14(3), 615.18(2), 615.18(3), 615.19 to 615.21, 615.23, 615.24, 615.26 to 615.28, 615.31 to 615.34, 615.38(5)"b"(4), 615.42, 615.45(1)"i" to "n," 620.3(3)"d," 620.4(2)"c," 620.5(7), 620.6, ch 625 title, 625.1, 625.2(1), 625.6(2), 630.1(1), 641.3(1)"f," 641.3(2)"e," 641.3(3)"d" and "e," Notice ARC 8331A .... 9/23/98



**VETERINARY MEDICINE BOARD[811]**

Release of information to the college student aid commission; state board examination; licensure fee; issuance or renewal of a license to practice veterinary medicine—denial, 5.18, 6.1(1), 6.1(2), 6.2, 6.4, 6.5(1), 6.5(2), 6.6(1)“b,” 6.8, 7.1, 7.1(1), 9.1(1), 9.1(2)“b,” 9.2(4), 9.3, 10.1, 10.4(24), Notice ARC 8316A ..... 9/9/98

**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”  
Electronic data interchange (EDI), 1.2, 2.5, 3.1(1) to 3.1(5), 3.1(7) to 3.1(11), 3.1(13) to 3.1(17), 6.2(9), 6.3, 6.3(2), 6.4(1), 6.4(2), ch 11, Filed ARC 8356A ..... 9/23/98

**WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”  
Coordinating service provider, ch 4, Filed ARC 8299A ..... 9/9/98  
Youth affairs, 10.1, 10.1(1), 10.2(2), 10.2(3), 10.2(6), 10.2(7)“h,” 10.2(8)“a,” 10.2(9), 10.2(10), 10.3(2), 10.3(3), 10.3(6), 10.3(8)“d,” 10.3(9)“c,” 10.3(10), 10.3(11), 10.4, 10.5(2), 10.5(3), 10.5(6), 10.5(7)“g,” 10.5(8)“a,” 10.5(9), 10.5(10), Filed ARC 8300A ..... 9/9/98  
Work force investment program, 11.3(3), 11.3(5), 11.3(6), 11.4, 11.5, 11.6(1), 11.7, 11.7(3), 11.8, 11.9(1), 11.10, Filed ARC 8301A ..... 9/9/98  
Iowa welfare-to-work program, ch 14, Filed ARC 8302A ..... 9/9/98  
Strategic workforce development fund, ch 15, Filed ARC 8303A ..... 9/9/98

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

EDITOR'S NOTE: Terms ending April 30, 1999.

Senator H. Kay Hedge, Chairperson  
3208 335th Street  
Fremont, Iowa 52561

Representative Christopher Rants, Vice-Chairperson  
2740 South Glass  
Sioux City, Iowa 51106

Senator Merlin E. Bartz  
2081 410th Street  
Grafton, Iowa 50440

Representative Danny Carroll  
244 400th Avenue  
Grinnell, Iowa 50112

Senator John P. Kibbie  
4285 440th Avenue  
Emmetsburg, Iowa 50536

Representative Minnette Doderer  
2008 Dunlap Court  
Iowa City, Iowa 52245

Senator William Palmer  
4815 Callaway Court  
Des Moines, Iowa 50317

Representative Janet Metcalf  
12954 NW 29th Drive  
Des Moines, Iowa 50325

Senator Sheldon Rittmer  
3539 230th Street  
DeWitt, Iowa 52742

Representative Keith Weigel  
315 W. Main, P.O. Box 189  
New Hampton, Iowa 50659

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

Jackie Van Ekeren Romp  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 11  
Des Moines, Iowa 50319  
Telephone (515)281-6331  
Fax (515)281-6611

## To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Organization; comprehensive community and economic development plan; CEBA, 1.4, 21.2, 50.2, 53.2, 53.8(3), 53.9(4), 53.14(1), 80.1, 80.2 IAB 9/9/98 ARC 8313A	Northwest Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 30, 1998 1:30 p.m.
Certified school to career program, ch 11 IAB 9/9/98 ARC 8312A	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	October 29, 1998 2 p.m.

**EDUCATIONAL EXAMINERS BOARD[282]**

Middle school endorsement, 14.20(15) IAB 9/9/98 ARC 8315A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	October 8, 1998 10 a.m.
Two-year administrator exchange license, 14.25 to 14.33 IAB 9/9/98 ARC 8314A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	October 8, 1998 1 p.m.

**EDUCATION DEPARTMENT[281]**

Local sales and services tax for school infrastructure, ch 96 IAB 9/9/98 ARC 8284A (ICN Network)	ICN Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Classroom Keystone AEA 1 1400 2nd St. S.W. Elkader, Iowa	October 2, 1998 1 to 2 p.m.
	State Room Northern Trails AEA 2 9184B 265th St. Clear Lake, Iowa	October 2, 1998 1 to 2 p.m.
	Lakeland AEA 3 Hwy. 18 and 2nd St. Cylinder, Iowa	October 2, 1998 1 to 2 p.m.
	Room 103 AEA 4 1382 4th Ave. N.E. Sioux Center, Iowa	October 2, 1998 1 to 2 p.m.
	Room 204, Library Bldg., 2nd Floor Iowa Central Comm. College Campus Arrowhead AEA 5 330 Ave. M Fort Dodge, Iowa	October 2, 1998 1 to 2 p.m.

<b>EDUCATION DEPARTMENT[281]</b> (ICN Network) (Cont'd)	ICN Room AEA 6 909 S. 12th St. Marshalltown, Iowa	October 2, 1998 1 to 2 p.m.
	AEA 7 3712 Cedar Heights Dr. Cedar Falls, Iowa	October 2, 1998 1 to 2 p.m.
	Louisa Room Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	October 2, 1998 1 to 2 p.m.
	Revere Room Grant Wood AEA 10 4401 6th St. S.W. Cedar Rapids, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Classroom Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa	October 2, 1998 1 to 2 p.m.
	Room 209A Western Hills AEA 12 1520 Morningside Ave. Sioux City, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Room Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	October 2, 1998 1 to 2 p.m.
	Turner Room Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Classroom Southern Prairie AEA 15 2814 N. Court Ottumwa, Iowa	October 2, 1998 1 to 2 p.m.
	Room 108 Great River AEA 16 1200 University Burlington, Iowa	October 2, 1998 1 to 2 p.m.

**EMERGENCY MANAGEMENT DIVISION[605]**

Enhanced 911 telephone systems, ch 10 IAB 9/23/98 ARC 8343A (See also ARC 8344A herein)	Conference Room—Level A Hoover State Office Bldg. Des Moines, Iowa	October 15, 1998 10 a.m.
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**EMPOWERMENT BOARD, IOWA[349]**

Iowa empowerment board, ch 1 <b>IAB 8/26/98 ARC 8247A</b> <b>(ICN Network)</b> (See also ARC 8248A)	ICN Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	Media Center Bettendorf High School 3333 18th St. Bettendorf, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	Louisa Room Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	Room 108 Great River AEA 16 1200 University Burlington, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	AEA 7 3712 Cedar Heights Dr. Cedar Falls, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	Revere Room Grant Wood AEA 10 4401 6th St. Cedar Rapids, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	State Room Northern Trails AEA 2 9184B 265th St. Clear Lake, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	ICN Room Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	Turner Room Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	ICN Classroom Lakeland AEA 3 Hwy. 18 and 2nd St. Cylinder, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	ICN Classroom Keystone AEA 1 2310 Chaney Rd. Dubuque, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
	ICN Classroom Keystone AEA 1 1400 2nd St. S.W. Elkader, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon

**EMPOWERMENT BOARD,  
IOWA[349]  
(ICN Network)  
(Cont'd)**

Room 12  
Fort Dodge High School  
819 N. 25th St.  
Fort Dodge, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

ICN Classroom  
Heartland AEA 11  
6500 Corporate Dr.  
Johnston, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

IPTV - 2 (East)  
Iowa Public Television  
6450 Corporate Dr.  
Johnston, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

Media Center  
Manson/Northwest Webster  
High School  
1601 15th St.  
Manson, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

ICN Room  
AEA 6  
909 S. 12th St.  
Marshalltown, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

ICN Classroom  
Southern Prairie AEA 15  
2814 N. Court St.  
Ottumwa, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

Room 103  
AEA 4  
1382 4th Ave.  
Sioux Center, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

Room 209A  
Western Hills AEA 12  
1520 Morningside Ave.  
Sioux City, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Waste incinerators and combustors,  
22.1(2), 22.101(2), 23.1, 25.1(10)  
IAB 8/26/98 ARC 8275A

East Conference Room  
Air Quality Bureau  
7900 Hickman Rd., Suite 1  
Urbandale, Iowa

September 25, 1998  
1 p.m.

**LABOR SERVICES DIVISION[347]**

Organizational structure,  
Amend and transfer 347—chs 1, 2  
to 875—chs 1, 2  
IAB 9/23/98 ARC 8355A

1000 E. Grand Ave.  
Des Moines, Iowa

October 15, 1998  
9 a.m.  
(If requested)

General industry safety and health,  
10.20  
IAB 9/23/98 ARC 8351A

1000 E. Grand Ave.  
Des Moines, Iowa

October 15, 1998  
9 a.m.  
(If requested)

Construction safety and health,  
26.1  
IAB 9/23/98 ARC 8352A

1000 E. Grand Ave.  
Des Moines, Iowa

October 15, 1998  
9 a.m.  
(If requested)

**NATURAL RESOURCE COMMISSION[571]**

No-wake zones at Sabula, 40.34 IAB 9/9/98 ARC 8325A	Conference Room—4th Floor West Wallace State Office Bldg. Des Moines, Iowa	September 30, 1998 1 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Massage therapists, 130.1, 130.3 to 130.10, 131.1 to 131.5, 131.7 to 131.19 IAB 9/23/98 ARC 8347A	South Conference Room Level A Hoover State Office Bldg. Des Moines, Iowa	October 13, 1998 10 a.m. to 12 noon
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**PUBLIC HEALTH DEPARTMENT[641]**

Reportable diseases, 1.2(1)"a" IAB 9/23/98 ARC 8357A	Conference Room—3rd Floor Side Two Lucas State Office Bldg. Des Moines, Iowa	October 14, 1998 9:30 to 10 a.m.
Immunizations—hepatitis B; polio exemption, 7.4(6) IAB 9/23/98 ARC 8358A	Conference Room—4th Floor Lucas State Office Bldg. Des Moines, Iowa	October 14, 1998 10 a.m.
Renovation, remodeling, and repainting—lead hazard notification process, 69.1 to 69.9 IAB 9/9/98 ARC 8318A (ICN Network)	ICN Room—3rd Floor Lucas State Office Bldg. Des Moines, Iowa	September 29, 1998 10 a.m.
	Atlantic Public Library 507 Poplar Atlantic, Iowa	September 29, 1998 10 a.m.
	Room 7B Buena Vista University 610 W. 4th St. Storm Lake, Iowa	September 29, 1998 10 a.m.
	ICN Classroom Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	September 29, 1998 10 a.m.
	Revere Room Grant Wood AEA 4401 6th St. S.W. Cedar Rapids, Iowa	September 29, 1998 10 a.m.
	Classroom 2, Careers Bldg. 128 North Iowa Area Community College 500 College Dr. Mason City, Iowa	September 29, 1998 10 a.m.
	ICN Classroom Southern Prairie AEA 2814 N. Court St. Ottumwa, Iowa	September 29, 1998 10 a.m.

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

Lead professional certification, 70.2, 70.4 to 70.9 IAB 9/9/98 <b>ARC 8319A</b> (ICN Network)	ICN Room—3rd Floor Lucas State Office Bldg. Des Moines, Iowa	September 29, 1998 10 a.m.
	Atlantic Public Library 507 Poplar Atlantic, Iowa	September 29, 1998 10 a.m.
	Room 7B Buena Vista University 610 W. 4th St. Storm Lake, Iowa	September 29, 1998 10 a.m.
	ICN Classroom Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	September 29, 1998 10 a.m.
	Revere Room Grant Wood AEA 4401 6th St. S.W. Cedar Rapids, Iowa	September 29, 1998 10 a.m.
	Classroom 2, Careers Bldg. 128 North Iowa Area Community College 500 College Dr. Mason City, Iowa	September 29, 1998 10 a.m.
	ICN Classroom Southern Prairie AEA 2814 N. Court St. Ottumwa, Iowa	September 29, 1998 10 a.m.
Iowa domestic abuse death review team, ch 91 IAB 9/9/98 <b>ARC 8317A</b>	Room 118 State Capitol Bldg. Des Moines, Iowa	September 30, 1998 1 to 3 p.m.
Emergency medical services, 132.1, 132.5(5), 132.8, 132.9(6), 132.16(3), 139.6(2) IAB 9/23/98 <b>ARC 8359A</b> (ICN Network)	ICN Room—3rd Floor Lucas State Office Bldg. Des Moines, Iowa	October 15, 1998 2 to 3 p.m.
	National Guard Armory 11 E. 23rd St. Spencer, Iowa	October 15, 1998 2 to 3 p.m.
	National Guard Armory 1712 LaClark Rd. Carroll, Iowa	October 15, 1998 2 to 3 p.m.
	National Guard Armory 1160 10th St. S.W. Mason City, Iowa	October 15, 1998 2 to 3 p.m.
	National Guard Armory 195 Radford Rd. Dubuque, Iowa	October 15, 1998 2 to 3 p.m.

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

National Guard Armory  
2858 N. Court Rd.  
Ottumwa, Iowa

October 15, 1998  
2 to 3 p.m.

**RACING AND GAMING COMMISSION[491]**

General,  
1.6(4), 3.11(3), 5.1(5), 5.16(21),  
13.13 to 13.26, 20.22(3), 26.19(5)  
IAB 9/9/98 ARC 8320A

IMTA Auditorium  
(next to Racing and Gaming Office)  
717 E. Court, Suite B  
Des Moines, Iowa

September 30, 1998  
9 a.m.

**REAL ESTATE COMMISSION[193E]**

Advertising; noncompliance—  
college student aid commission,  
1.24(7), 2.4, 4.44, 5.18, 5.19  
IAB 9/23/98 ARC 8349A

Conference Room—2nd Floor  
1918 S.E. Hulsizer Rd.  
Ankeny, Iowa

October 13, 1998  
9 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Driver's licenses,  
amendments to chs 600 to 602,  
604, 605, 615, 620, 625, 630, 641  
IAB 9/23/98 ARC 8331A

Conference Room  
Park Fair Mall  
Lower Level  
100 Euclid Ave.  
Des Moines, Iowa

October 15, 1998  
10 a.m.  
(If requested)



Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Agricultural Development Authority[25]

Soil Conservation Division[27]

**ATTORNEY GENERAL[61]**

**AUDITOR OF STATE[81]**

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CITIZENS’ AIDE[141]

CIVIL RIGHTS COMMISSION[161]

**COMMERCE DEPARTMENT[181]**

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

**CORRECTIONS DEPARTMENT[201]**

Parole Board[205]

**CULTURAL AFFAIRS DEPARTMENT[221]**

Arts Division[222]

Historical Division[223]

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

City Development Board[263]

Iowa Finance Authority[265]

**EDUCATION DEPARTMENT[281]**

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL[301]

**ELDER AFFAIRS DEPARTMENT[321]**

**EMPLOYMENT SERVICES DEPARTMENT[341]**

Job Service Division[345]

Labor Services Division[347]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

**GENERAL SERVICES DEPARTMENT[401]**

HUMAN INVESTMENT COUNCIL[417]

**HUMAN RIGHTS DEPARTMENT[421]**

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

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## NOTICE – AVAILABILITY OF HAZMAT GRANTS

The Iowa Emergency Response Commission (IERC) and the Iowa Emergency Management Division announce the availability of funds for training grants to support the implementation of the Emergency Planning and Community Right-to Know Act of 1986 (EPCRA), also known as the Superfund Amendment and Reauthorization Act, Title III (SARA).

The SARA grant program is funded through money awarded by the Federal Emergency Management Agency (FEMA) to states for the purpose of providing hazardous materials training to public sector employees. The budget period for this program is the federal fiscal year, October 1<sup>st</sup>, 1998 through September 30, 1999.

Individual grant announcements and application instructions will be sent to all Local Emergency Planning Committees (LEPCs) in Iowa in October of 1998, with a December 1<sup>st</sup>, 1998 application deadline.

***The only eligible applicants for these grants are designated Local Emergency Planning Committees in Iowa.***

If you have any questions about this program call Dan Lee, Iowa Emergency Management Division, (515) 281-3231.

## NOTICE---AVAILABILITY OF PUBLIC FUNDS

AGENCY	PROGRAM	SERVICE DELIVERY AREA	ELIGIBLE APPLICANTS	SERVICES	APPLICATION DUE DATE	CONTRACT AND PROJECT PERIOD
Public Health	Anatomical Gift Public Awareness	State-wide	Non-profit entities or governmental organizations with an Interest in increasing public awareness of organ and tissue donation and transplantation.	Conduct a public awareness project on a local, regional or statewide basis regarding organ and tissue donation.	10/30/98	Contract period January 1, 1999 through December 31, 1999

Request application packet from:

Ronald D. Eckoff, M.D., M.P.H.  
Iowa Department of Public Health  
Lucas State Office Building  
321 East 12<sup>th</sup> Street  
Des Moines, Iowa 50319-0075  
Telephone: (515)281-5914  
FAX: (515)281-4535  
e-mail: reckoff@idph.state.ia.us

Note: Approximately \$10,000 is available for individual grants ranging from \$ 100 to \$ 1,000 each.

## NOTICE --- AVAILABILITY OF PUBLIC FUNDS

Agency	Program	Service Delivery Area	Eligible Applicants	Services	Application Due Date	Contract Period
Public Health	Family Planning	N.A.	Iowa Department of Public Health Family Planning Agencies	OB-GYN Nurse Practitioner Training	12/01/98	1/01/99 to 12/31/99

Request application packet from:

Jane Borst  
 Bureau of Family Services  
 Division of Family & Community Health  
 Iowa Department of Public Health  
 Lucas State Office Building  
 Des Moines, Iowa 50319-0075  
 Telephone Number: (515) 281-4911  
 FAX Number: (515)242-6384

## ARC 8335A

COMMUNITY ACTION  
AGENCIES DIVISION[427]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 216A.92B, the Commission on Community Action Agencies hereby gives Notice of Intended Action to amend Chapter 22, "Community Services Block Grant," Iowa Administrative Code.

Chapter 22 relates to the program established by Public Law 97-35 which makes available to the state of Iowa funds to provide a range of antipoverty services to communities.

The proposed amendment to the references to the federal authorizing statute is intended to bring the reference up to date and to use consistent language when referencing the federal statute.

The proposed amendment to rule 427—22.2(216A) corrects an inaccurate citation to the Iowa Code statute concerning designation of community action agencies.

The proposed amendment to subrule 22.3(2) updates the citation to the current Iowa Block Grant Appropriation bill.

The proposed amendment to subrule 22.5(3) adds religion to the list of categories for which discrimination is not allowed in order to be consistent with federal requirements.

The proposed amendment to subrule 22.7(3) increases from \$500 to \$2500 the dollar threshold of equipment purchases requiring governing board and Division of Community Action Agencies approval. The proposed threshold is viewed as more practical and consistent with thresholds used by other departments of the state of Iowa and certain other federal programs.

The proposed amendment to subrule 22.8(2) is intended to provide clearer direction to Community Action Agencies concerning the requirements relative to work program amendments.

The proposed amendment to subrule 22.8(3) is intended to incorporate the provisions pertaining to carryover of funds contained in the Community Services Block Grant Reauthorization Act of 1994, Public Law 97-35.

The proposed amendment to rule 427—22.10(216A) is intended to incorporate the revisions pertaining to audit requirements contained in the Single Audit Act of 1996 (Public Law 104-156).

Consideration will be given to all data, views, or arguments thereto received by the Bureau of Community Services, Division of Community Action Agencies, Lucas State Office Building, Des Moines, Iowa 50319, on or before 4:30 p.m. on October 13, 1998.

These amendments are intended to implement Public Law 97-35.

The following amendments are proposed:

ITEM 1. Amend 427—Chapter 22 by striking "Title VI, Subtitle B, Public Law 97-35, as amended, the Omnibus Budget Reconciliation Act of 1981", "Public Law 97-35, Title VI, Subtitle B, as amended" and "Public Law 97-35, Subtitle B, as amended" and inserting "The Community

Services Block Grant Reauthorization Act of 1994, Public Law 97-35".

ITEM 2. Amend rule 427—22.2(216A), definition of "Community action agency, community action program, or eligible entity," by striking "216A.91" and inserting "216A.93".

ITEM 3. Amend subrule 22.3(2) by striking "1994 Iowa Acts, chapter 1194" and inserting "1998 Iowa Acts, House File 2218".

ITEM 4. Amend subrule 22.5(3) as follows:

22.5(3) Nondiscrimination provisions. Applicants must ensure in their community action plans that no person shall on the ground of race, color, national origin, religion or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this program. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified disabled individual under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, shall also apply to any such program or activity.

ITEM 5. Amend subrule 22.7(3) as follows:

22.7(3) Equipment purchases. Equipment purchases must be approved in writing by the governing board for any piece of equipment involving over \$500 \$2500 of CSBG funds. Additionally, prior state approval of the purchases must be requested by the chairperson and approved by the DCAA.

ITEM 6. Rescind subrule 22.8(2) and adopt the following new subrule:

22.8(2) Amendment of plan. Eligible entities desiring to delete or add objectives to their approved community action plan must submit a completed community action plan amendment request for approval by the DCAA. All requests for community action plan amendments must be approved by the governing board prior to approval by the DCAA.

ITEM 7. Rescind subrule 22.8(3) and adopt the following new subrule:

22.8(3) Carryover of funds. At its option, the eligible entity may request the approval of the DCAA to carry forward unexpended funds beyond the end of a program year. Contract extensions which are requested by the eligible entity shall be granted by the DCAA for periods of 3 months. Subsequent extensions may be granted on an as-needed basis by the DCAA for up to a total of 12 months beyond the program year. Initial and any subsequent requests for a contract extension shall be delivered to the DCAA 30 days prior to the contract end date. Funds remaining at the end of the contract period shall be returned to the DCAA.

ITEM 8. Rescind rule 421—22.10(216A) and adopt the following new rule:

427—22.10(216A) Audits. Each eligible entity which expends a total amount of federal awards equal to or in excess of \$300,000 in any fiscal year of the contractor shall cause all funds expended under this contract to be audited annually. The audit shall be arranged by and paid by the contractor. Audits shall be performed in accordance with generally accepted auditing standards, including the standards published by the General Accounting Office, "Government Auditing Standards." The audit report shall conform to the audit format established for community action agencies by the state auditor.

## COMMUNITY ACTION AGENCIES DIVISION[427](cont'd)

Audit procedures shall conform to OMB Circular A-133, revised June 24, 1997, "Audits of States, Local Governments and Non-Profit Organizations." In addition, DCAA may request more frequent audits or examinations of financial records of the recipient in order to ensure adequate financial controls are in place and operating.

## ARC 8336A

## COMMUNITY ACTION AGENCIES DIVISION[427]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 216A.92B, the Commission on Community Action Agencies hereby gives Notice of Intended Action to adopt Chapter 25, "Community Food and Nutrition Program," Iowa Administrative Code.

These rules are proposed pursuant to Title VI, Section 681A of the Community Services Block Grant Reauthorization Act of 1994 (Public Law 97-35) which authorizes funding for the Community Food and Nutrition (CFN) program.

Consideration will be given to all written data, views, or arguments thereto received by the Bureau of Community Services, Division of Community Action Agencies, Lucas State Office Building, Des Moines, Iowa 50319, on or before 4:30 p.m., October 13, 1998.

These rules are intended to implement Title VI, Section 681A of Public Law 97-35.

The following new chapter is proposed.

#### CHAPTER 25

#### COMMUNITY FOOD AND NUTRITION PROGRAM

**427—25.1(PL97-35) Purpose.** Title VI, Section 681A of the Community Services Block Grant Act authorizes funding for the community food and nutrition (CFN) program. The purpose of this program is to coordinate existing private and public food assistance resources, whenever such coordination is determined to be inadequate, to better serve low-income populations; to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate new programs in underserved or unserved areas; and to develop innovative approaches at the state and local levels to meet the nutrition needs of low-income people.

#### **427—25.2(PL97-35) Definitions.**

"Administrator" means the administrator of the division of community action agencies of the state department of human rights.

"Application" means a request for community food and nutrition grant funds which complies with federal and state requirements.

"Bureau" means the bureau of community services within the division of community action agencies of the state department of human rights.

"CFN" means the community food and nutrition grant program.

"Division" means the division of community action agencies of the state department of human rights.

"Grant review committee" means a committee designated by the division of community action agencies to review applications and submit funding recommendations to the division.

"RFP" means the request for proposal provided to potential applicants.

#### **427—25.3(PL97-35) Competitive grant application procedures.**

**25.3(1)** The administrator will announce through public notice the opening of the competitive grant period. This announcement shall be in the form of an RFP.

**25.3(2)** The RFP shall describe the purposes for which funding will be available, the application procedures, the criteria for review, and all relevant time frames.

**25.3(3)** An application shall adhere to the structure prescribed by the division in the RFP. For an application to be considered, it shall be received by the designated time and date and shall meet all other requirements prescribed by the division.

**25.3(4)** The division shall conduct a preliminary review of each application to ensure that the applicant is eligible and the application is complete. All applications which are submitted in a timely fashion and which contain the necessary information will be presented to the grant review committee.

**25.3(5)** The committee shall review each application presented to it and shall use the same ranking system for each application. The ranking system shall be based on the criteria for review as described in the RFP.

**25.3(6)** The committee shall forward its funding recommendations to the administrator for approval.

#### **427—25.4(PL97-35) Appeals.**

**25.4(1)** Applicants shall be notified in writing of the division's funding decisions. Applicants have the right to appeal funding decisions based upon a showing that the rules and procedures governing the grant selection process have not been properly applied. The appeal shall be in writing and shall be filed with the administrator within ten working days of the date of written notification of any committee or division decision.

**25.4(2)** All appeals shall clearly state in what manner the committee or division failed to follow the rules of the grant process as governed by these administrative rules or procedures outlined in the RFP. The request shall also describe the remedy being sought.

**25.4(3)** The division shall not enter into any contracts until the administrator has reviewed and decided on all appeals received in accordance with 25.4(1) and 25.4(2). The review shall be conducted as expeditiously as possible so that all funds can be distributed in a timely fashion.

**25.4(4)** The administrator's decision shall represent final agency action for the purpose of judicial review.

**427—25.5(PL97-35) Grant period.** The division shall establish the time period for which applications are sought when issuing the RFP as specified in 25.3(1) and 25.3(2). The division may seek proposals for programs up to three years in length; however, funding for the entire program period shall be subject to the continued availability of federal funds.

#### **427—25.6(PL97-35) Contract agreement.**

**25.6(1)** Successful applicants and the division shall negotiate a contract to implement the program.

## COMMUNITY ACTION AGENCIES DIVISION[427](cont'd)

25.6(2) The applicant may be requested to modify the original proposal in the negotiation process.

25.6(3) The contract will specify the terms and conditions of the agreement between the parties including, but not limited to, the grant period, reports and products, ineligible activities, conditions of payment, termination provisions, and the budget.

25.6(4) If the applicant and the division are unable to successfully negotiate a contract, the division may withdraw the award and redistribute program funds in a manner consistent with rule 427—25.3(PL97-35).

427—25.7(PL97-35) **Eligible applicants.** Any public or private nonprofit agency may apply for a grant through this program.

**ARC 8343A****EMERGENCY MANAGEMENT  
DIVISION[605]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3, 34A.6, and 34A.22, the Emergency Management Division hereby rescinds Chapter 10, “Enhanced 911 Telephone Systems,” Iowa Administrative Code, and adopts a new Chapter 10 with the same title.

The Emergency Management Division is proposing to rescind current rules and adopt a new chapter due to significant changes in structure and content. These rules provide for uniform procedures regarding the establishment of joint E911 service boards, submittal of E911 service plans, the establishment of an E911 surcharge, and minimum standards for E911 operations. In addition, these rules implement 1998 Iowa Acts, Senate File 530, which provides for the establishment of an enhanced wireless 911 service and surcharge.

Consideration will be given to all written suggestions or comments on the proposed rules on or before October 13, 1998. Such written materials should be sent to the Administrator, Iowa Emergency Management Division, Hoover State Office Building, Des Moines, Iowa 50319; fax (515)281-7539.

Also, there will be a public hearing on October 15, 1998, at 10 a.m. (local Iowa time) in the Emergency Management Conference Room, Iowa Emergency Management Division, Hoover State Office Building, Level A, Des Moines, Iowa, at which time persons may present their views.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Iowa Emergency Management Division at (515)281-3231 and advise of their specific need.

These rules are also Adopted and Filed Emergency and are published herein as **ARC 8344A**. The content of that submission is incorporated by reference.

These rules are intended to implement Iowa Code chapter 34A.

**ARC 8332A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” appearing in the Iowa Administrative Code.

These amendments allow for the filing of an appeal to set aside additional resources for a community spouse either at the time the attribution is completed or at a later time if the household did not exercise their right to appeal; require Form 470-2577, Resources Upon Entering a Medical Facility, to be completed by all applicants who have a community spouse when the application is filed for Medicaid payment for nursing facility care if the application is processed through the X-PERT system; and eliminate obsolete transfer of resource policies at rules 441—75.6(249A) and 441—75.15(249A) and references to those rules.

When a married person files an application for Medicaid payment for nursing facility care, an attribution of resources is completed if the other spouse remains in the community. The attribution is completed for the month of entry into the institution. The attribution may also have been completed prior to the Medicaid application upon the request of either spouse. This attribution allows the community spouse to retain assets so that the community spouse is not impoverished by the institutionalization of the other spouse. Following the completion of the attribution, a Notice of Attribution is issued to each spouse. Current rules provide that the institutionalized spouse, the community spouse or someone representing the applicant may file an appeal of the Notice of Attribution to set aside additional resources for the community spouse when the community spouse's income is not equal to the minimum monthly maintenance needs allowance. These amendments clarify that if an attribution has not previously been appealed, either spouse may appeal the attribution upon the denial of an application for Medicaid benefits based on the attribution.

Currently, cases are processed either by the IABC system or the X-PERT system. For those cases where an application is filed for IABC processing and the application is filed in the month of entry to the institution, the application contains a section with a series of questions identifying the household's resources. If the application is filed in any month other than the month of entry, there is no place to record resource information regarding the month of entry. Form 470-2577 is used when the application is filed after the month of entry to identify the resources owned by the household during the month of entry. For those cases processed by the X-PERT system, the Part 1 application is used. This application does not contain a section with a series of questions identifying the household's resources. A tool is needed to record the resources owned by the couple for the workers to identify the resources and complete the attribution.

The transfer of assets policies changed with the enactment of the Medicare Catastrophic Coverage Act of 1988 and



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

again with the enactment of the Omnibus Budget Reconciliation Act (OBRA) of 1993. When both these changes were made, prior policies were retained in rules because they continued to affect transfers made prior to the changes. Enough time has elapsed that transfers made prior to the effective date of the current policy no longer affect Medicaid eligibility for current applicants or recipients. As the prior policies no longer affect Medicaid applicants or recipients, they are being removed from the rules.

Policies which were included in the rules being removed regarding the statewide average cost and undue hardship which also apply to current policy are moved to the current policy.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before October 14, 1998.

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

The following amendments are proposed.

ITEM 1. Amend subrule 75.1(35), paragraph "c," subparagraph (2), as follows:

(2) Disposal of resources for less than fair market value by SSI-related applicants or recipients shall be treated according to policies specified in rule 441—75.6(249A) 441—75.23(249A).

ITEM 2. Amend subrule 75.5(3), paragraphs "a" and "e," as follows:

a. When ~~initiated~~ *determined*. The department shall ~~initiate~~ *determine* the attribution of resources ~~when between spouses at the earlier of the following~~:

(1) ~~Either~~ *When either* spouse requests that the department determine the attribution of resources at the beginning of the person's continuous stay in a medical facility *prior to an application for Medicaid benefits*. This request must be accompanied by Form 470-2577, Resources Upon Entering a Medical Facility, and necessary documentation.

(2) ~~The~~ *When the* institutionalized spouse or someone acting on that person's behalf applies for Medicaid benefits. If the application is not made in the month of entry, *or if the application is processed through the X-PERT system*, the applicant shall also complete Form 470-2577 and provide necessary documentation.

e. *Notice and appeal rights*. The department shall provide each spouse a notice of the attribution results. The notice shall state that either spouse has a right to appeal the attribution if the spouse believes:

(1) That the attribution is incorrect, *or*

(2) That the amount of income generated by the resources attributed to the community spouse is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance.

*If an attribution has not previously been appealed, either spouse may appeal the attribution upon the denial of an application for Medicaid benefits based on the attribution.*

ITEM 3. Rescind and reserve rule 441—75.6(249A).

ITEM 4. Rescind and reserve rule 441—75.15(249A).

ITEM 5. Amend rule 441—75.23(249A) as follows:

Amend subrule 75.23(3) as follows:

75.23(3) Period of ineligibility. The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified

in 75.23(2), divided by the statewide average private pay rate for nursing facility services at the time of application. ~~The statewide average private pay rate for nursing facility services is set forth at 75.15(2) "b."~~ *The average statewide cost to a private pay resident shall be determined by the department and updated annually for nursing facilities. For the period from July 1, 1998, through June 30, 1999, this average statewide cost shall be \$2,567.77 per month or \$84.42 per day.*

Amend subrule 75.23(5), paragraph "d," as follows:

d. The denial of eligibility would work an undue hardship ~~as set forth in 75.15(3)~~. *Undue hardship shall exist only where both of the following conditions are met:*

(1) *The person who transferred the resource or the person's spouse has exhausted all means including legal remedies and consultation with an attorney to recover the resource.*

(2) *The person's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident. The value of all resources is counted except for:*

1. *The home if occupied by a dependent relative or if a doctor verifies that the person is expected to return home.*

2. *Household goods.*

3. *A vehicle required by the client for transportation.*

4. *Funds for burial of \$4,000 or less.*

*Hardship will not be found if the resource was transferred to a person who was handling the financial affairs of the client or to the spouse or children of a person handling the financial affairs of the client unless the client demonstrates that payments cannot be obtained from the funds of the person who handled the financial affairs to pay for nursing facility services.*

ITEM 6. Amend rule 441—75.25(249A), definitions of "Community spouse," "Institutionalized person," "Institutionalized spouse," "Nursing facility services," and "Transfer of resources," as follows:

"Community spouse" shall mean a spouse of an institutionalized spouse for the purposes of rules 441—75.5(249A), 441—75.15(249A), 441—75.16(249A), and 441—76.10(249A).

"Institutionalized person" shall mean a person who is an inpatient in a nursing facility or a Medicare-certified skilled nursing facility, who is an inpatient in a medical institution and for whom payment is made based on a level of care provided in a nursing facility, or who is a person described in 75.1(18) for the purposes of ~~rules~~ *rule* 441—75.5(249A) ~~and 441—75.15(249A)~~.

"Institutionalized spouse" shall mean a married person living in a medical institution, or nursing facility, or home- and community-based waiver setting who is likely to remain living in these circumstances for at least 30 consecutive days, and whose spouse is not in a medical institution or nursing facility for the purposes of rules 441—75.5(249A), 441—75.15(249A), 441—75.16(249A), and 441—76.10(249A).

"Nursing facility services" shall mean the level of care provided in a medical institution licensed for nursing services or skilled nursing services for the purposes of rule 441—75.15(249A) 441—75.23(249A).

"Transfer of resources assets" shall mean transfer of resources *or income* for less than fair market value for the purposes of rule 441—75.15(249A) 441—75.23(249A). For example, a transfer of resources *or income* could include establishing a trust, contributing to a charity, removing a name

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

from a resource or income, or reducing ownership interest in a resource or income.

## ARC 8333A

HUMAN SERVICES  
DEPARTMENT[441]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," appearing in the Iowa Administrative Code.

This amendment revises policy governing payment for abortions. The definition of endangering the woman's life is revised to conform with the requirements of the new Hyde amendment to the federal Appropriations Act. In addition, the form number is updated.

The recently enacted Appropriations Act contained new requirements for federally funded abortions. One of those requirements is that, in order to receive federal funding, a physician must certify that a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed. Previously, a physician was required to certify only that, in the physician's professional judgment, the life of the woman would be endangered if the fetus were carried to term.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before October 14, 1998.

This amendment is intended to implement Iowa Code section 249A.4.

The following amendment is proposed.

Amend subrule 78.1(17) as follows:

**78.1(17) Abortions.** Payment for an abortion or related service is made when Form XIX (PHY-4) 470-0836 is completed for the applicable circumstances and is attached to each claim for services. Payment for an abortion is made under one of the following circumstances:

a. The physician certifies that the pregnant woman's life ~~would be endangered if the fetus were carried to term~~ woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed.

b. The physician certifies that the fetus is physically deformed, mentally deficient or afflicted with a congenital illness and the physician states the medical indication for determining the fetal condition.

c. The pregnancy was the result of rape reported to a law enforcement agency or public or private health agency

which may include a family physician within 45 days of the date of occurrence of the incident. The report shall include the name, address, and signature of the person making the report. Form XIX (PHY-4) 470-0836 shall be signed by the person receiving the report of the rape.

d. The pregnancy was the result of incest reported to a law enforcement agency or public or private health agency including a family physician no later than 150 days after the date of occurrence. The report shall include the name, address, and signature of the person making the report. Form XIX (PHY-4) 470-0836 shall be signed by the person receiving the report of incest.

## ARC 8334A

HUMAN SERVICES  
DEPARTMENT[441]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," appearing in the Iowa Administrative Code.

This amendment revises the pharmacy reimbursement methodology. The pharmacy point-of-sale system has the capacity to collect the pharmacist's usual and customary charge for a prescription in addition to a submitted charge which appears in a different field. Current reimbursement is calculated using the submitted charge. This amendment changes the calculation methodology to allow reimbursement to be calculated using the pharmacist's usual and customary charge which will be compared to the Medicaid maximum allowable reimbursement and the lesser of the two amounts will be paid.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before October 14, 1998.

This amendment is intended to implement Iowa Code section 249A.4.

The following amendment is proposed.

Amend subrule 79.1(8), paragraph "a," as follows:

a. "Estimated acquisition cost (EAC)" is defined as the average wholesale price as published by First Data Bank less 10 percent.

"Maximum allowable cost (MAC)" is defined as the upper limit for multiple source drugs established in accordance with the methodology of the Health Care Financing Administration (HCFA) as described in 42 CFR 447.332(a)(i) and (ii).

The basis of payment for prescribed drugs for which the MAC has been established and for Schedule II controlled drugs shall be the lesser of the submitted acquisition cost or MAC plus a professional dispensing fee which is the lower of the pharmacist's customary fee to the general public, the

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~75th percentile of customary fees charged in the state of Iowa, or a fee of \$4.02 or the pharmacist's usual and customary charge to the general public.~~

The basis of payment for drugs other than Schedule II controlled drugs for which the MAC has not been established shall be the lesser of the submitted acquisition cost or the EAC plus a professional dispensing fee which is the lower of the pharmacist's customary fee to the general public, the 75th percentile of fees charged in the state of Iowa or a fee of \$6.25 or the pharmacist's usual and customary charge to the general public.

If a physician certifies in the physician's handwriting that, in the physician's medical judgment, a specific brand is medically necessary for a particular recipient, the MAC does not apply and the payment equals the average wholesale price of the brand name product less 10 percent. If a physician does not so certify, and a lower cost equivalent product is not substituted by the pharmacist, the payment for the product equals the established MAC.

Equivalent products shall be defined as those products which meet therapeutic equivalent standards as published in the federal Food and Drug Administration document, "Approved Prescription Drug Products With Therapeutic Equivalence Evaluations."

ARC §340A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135B.7, the Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 51, "Hospitals," Iowa Administrative Code.

These amendments add a category of specialty hospitals entitled Critical Access Hospitals. This new category of hospitals was created by the Balanced Budget Act of 1997, Section 4201, entitled Medicare Rural Hospital Flexibility Program.

Interested persons may make written comments or suggestions on the proposed amendments on or before October 13, 1998. Written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; fax (515)242-6863.

These amendments are intended to implement Iowa Code chapter 135B.

The following amendments are proposed.

ITEM 1. Amend subrule 51.2(7) as follows:

51.2(7) Hospitals not accredited by the JCAHO or the AOA shall be inspected by the department utilizing the current Medicare standards conditions of participation found in Title XVIII of the federal Social Security Act and 42 CFR Part 482, Subparts A, B, C, D, and E as of October 1, 1986, or 42 CFR Part 485, Subpart F as of October 1, 1997. The department may promulgate additional standards. Where prac-

tical, surveys for state licensure purposes shall be performed concurrently with Medicare certification.

ITEM 2. Amend 481—Chapter 51 by adding the following new rule:

481—51.52(135B) Critical access hospitals. Critical access hospitals shall meet the following criteria:

51.52(1) The hospital shall be no less than 35 miles from another hospital or no less than 15 miles over secondary roads or shall be designated by the Iowa department of public health as a necessary provider of health care.

51.52(2) The hospital shall be a public or nonprofit hospital and shall be located in a county in a rural area.

51.52(3) The hospital shall provide 24-hour emergency care services as described in 481 IAC 51.30(135B).

51.52(4) The hospital shall maintain no more than 15 acute care inpatient beds or, in the case of a hospital having a swing-bed agreement, no more than 25 inpatient beds and the number of beds used for acute inpatient services shall not exceed 15 beds.

51.52(5) The hospital shall meet the Medicare conditions of participation as a critical access hospital as described in 42 CFR Part 485, Subpart F as of October 1, 1997.

51.52(6) The hospital shall continue to comply with all general hospital license requirements as defined in 481 IAC 51.

ARC §348A

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 502.607, the Insurance Division hereby amends Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

These proposed rules set forth certain filing requirements for those who wish to become licensed as investment advisers and investment adviser representatives and prescribe notice filing requirements for federal covered advisers.

Any interested person may submit written comments on the proposed rules on or before October 13, 1998. These comments should be directed to Craig A. Goettsch, Superintendent of Securities, Iowa Securities Bureau, 340 E. Maple Street, Des Moines, Iowa 50319-0066. Comments may be transmitted by facsimile to (515)281-6467.

These rules are intended to implement Iowa Code chapter 502 as amended by 1998 Iowa Acts, Senate File 2325.

The following rules are proposed.

ITEM 1. Adopt the following new rule 191—50.94(502):

191—50.94(502) Investment adviser applications and renewals.

50.94(1) Investment adviser applications. Every applicant for an initial license to conduct business as an investment adviser shall file with the administrator:

## INSURANCE DIVISION[191](cont'd)

a. A complete, current Form ADV (Uniform Application for Investment Adviser Registration under the Investment Advisers Act of 1940, Revised 1-91). The Form ADV shall include a manually signed and notarized execution page.

b. The fee of \$200 required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, Senate File 2325.

c. An irrevocable consent to service of process (Form U-2) appointing the administrator as the applicant's attorney for service of process and, if necessary, a corporate resolution (Form U-2A).

d. Any other information that the administrator determines is relevant to the application.

**50.94(2)** Investment adviser renewals. Every applicant for renewal of an investment adviser license shall file with the administrator between October 1 and December 1:

a. Amendments to the documents previously filed that were not amended as required by rule 50.96(502).

b. The fee of \$200 required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, Senate File 2325.

ITEM 2. Adopt the following **new** rule 191—50.95(502):

**191—50.95(502) Investment adviser representative applications and renewals.**

**50.95(1)** Investment adviser representative applications. An application for initial registration as an investment adviser representative shall:

a. Be filed with the administrator upon Form U-4 (Uniform Application for Securities Industry Registration or Transfer, Revised 11-97). Both the individual applicant and the investment adviser shall manually execute Form U-4.

b. Contain the fee of \$30 required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, Senate File 2325.

**50.95(2)** Investment adviser representative renewals. An application for renewal registration for an investment adviser representative registered in this state shall:

a. Be filed annually between October 1 and December 1 by the investment adviser with the administrator upon the Iowa Investment Adviser Certification Form.

b. Contain the fee of \$30 for each renewal required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, Senate File 2325.

c. Contain amendments of documents previously filed with the administrator that were not amended as required by rule 50.96(502).

ITEM 3. Adopt the following **new** rule 191—50.96(502):

**191—50.96(502) Updated filings and withdrawals.**

**50.96(1)** Updates. If the information contained in any document in the application for initial license or renewal becomes inaccurate or incomplete in any material respect, including a change in the name or form of organization of the applicant, a correcting amendment shall be filed within 30 days of the change. Failure to file within 30 days may result in sanctions as authorized by Iowa Code Supplement section 502.304 as amended by 1998 Iowa Acts, Senate File 2325.

**50.96(2)** Withdrawals.

a. Requests to withdraw from investment adviser licensure shall be filed on Form ADV-W (Notice of Withdrawal from Registration as Investment Adviser, Revised 1-91).

b. Requests to withdraw from investment adviser representative licensure shall be filed on Form U-5 (Uniform Termination Notice for Securities Industry Registration, Revised 11-97).

ITEM 4. Adopt the following **new** rule 191—50.97(502):

**191—50.97(502) Federal covered adviser notice, renewal and update filings.**

**50.97(1)** Federal covered adviser notice filings. A federal covered adviser in this state shall file with the administrator:

a. An executed Form ADV (Uniform Application for Investment Adviser Registration under the Investment Advisers Act of 1940, Revised 1-91) as filed with the Securities and Exchange Commission.

b. The filing fee of \$100 required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, Senate File 2325.

c. An irrevocable consent to service of process (Form U-2), and if necessary, a corporate resolution (Form U-2A).

**50.97(2)** Renewal and updates.

a. Renewals shall be filed on Form ADV with the administrator between October 1 and December 1 and contain the \$100 filing fee required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, Senate File 2325.

b. A federal covered adviser who has made a notice filing shall file with the administrator a copy of any amendment to its Form ADV or any schedule thereto when such amendment is filed with the Securities and Exchange Commission.

**ARC 8355A****LABOR SERVICES DIVISION[347]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3, 22.11 and 91.6 and 1998 Iowa Acts, Senate File 2321, the Labor Commissioner hereby gives Notice of Intended Action to amend and transfer 347—Chapters 1 and 2 to 875—Chapters 1 and 2, Iowa Administrative Code.

These amendments move rules in 347—Chapters 1 and 2 under Employment Services Department to 875—Chapters 1 and 2 under Workforce Development Department. These amendments make minor changes to indicate new responsibilities assigned to the Division of Labor Services. These amendments strike rules relating to public examination of records and propose new rules to clarify procedures and policies.

If requested by October 14, 1998, a public hearing will be held on October 15, 1998, at 9 a.m. at 1000 E. Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed amendments. Written data or arguments to be considered in adoption may be submitted to the Deputy Labor Commissioner, Division of Labor Services, 1000 E.

## LABOR SERVICES DIVISION[347](cont'd)

Grand Avenue, Des Moines, Iowa 50319-0209, no later than close of business on October 15, 1998.

The Division has determined that this Notice of Intended Action may have an impact on small business. These amendments will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency.

The Division will issue a regulatory flexibility analysis as provided by Iowa Code section 17A.31 if a written request is filed within 20 days after this publication with the Deputy Labor Commissioner, Division of Labor Services, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Administrative Procedure Act, or an organization representing at least 25 persons which is registered with the Division of Labor Services under the Administrative Procedure Act.

These amendments are intended to implement Iowa Code chapters 17A and 22.

The following amendments are proposed.

**ITEM 1. Transfer 347—Chapter 1 to 875—Chapter 1 and amend rules 875—1.1(91) to 875—1.3(91) as follows:**

**875—1.1(91) Definitions.** The definitions of terms in Iowa Code section 17A.2 shall apply to these terms as they are used throughout this chapter. In addition, as used in this chapter:

“Commissioner” means the labor commissioner of the division of labor services or *designee*.

“Division” means the division of labor services of the department of ~~employment services~~ *workforce development*.

**875—1.2(91) Scope and application.** This chapter describes the organization of the ~~bureau~~ *division*, the laws it enforces, and the methods by which and location where the public may obtain information or make submissions or requests.

**875—1.3(91) Department of ~~employment services~~ *workforce development*, division of labor services.** The division is the office of the commissioner and consists of the commissioner and those employees who discharge the duties and responsibilities imposed upon the commissioner by the laws of this state. The commissioner has control, supervision and authority to enforce the following chapters and sections of the Iowa Code: section 30.7, Iowa Emergency Response Commission, Duties to be Allocated to Department of ~~Employment Services Workforce Development~~; *section 85.68, Workers' Compensation Division, Actions—Collection of Payments—Subrogation*; Chapter 88, Occupational Safety and Health; Chapter 88A, Safety Inspection of Amusement Rides; Chapter 88B, Removal and Encapsulation of Asbestos; Chapter 89, Boilers and Unfired Steam Pressure Vessels; Chapter 89A, State Elevator Code; Chapter 89B, Hazardous Chemicals Risks—Right to Know; Chapter 90A, Boxing and Wrestling; Chapter 91, Division of Labor Services; Chapter 91A, Wage Payment Collection; Chapter 91C, Registration of Construction Contractors; ~~Iowa Code Supplement Chapter 91D, Minimum Wage Law; Chapter 91E, 1990 Iowa Acts, chapter 1134, Employer Requirements Relating to Non-English Speaking Employees; Chapter 92, Child Labor; Chapter 94, State Free Employment Service and Employment Agencies; and section 327E.37, Sanitation and Shelter.~~ The division consists of four bureaus: Occupational Safety and Health Enforcement Bureau (enforces occupational safety and health rules in workplaces through inspections based on accidents, complaints, and programmed inspections); Occu-

pational Safety and Health Consultation and Education Bureau (conducts occupational safety and health inspections at the request of an employer and conducts educational programming); Inspections and Reporting Bureau (conducts amusement rides, elevator and boiler inspections and maintains statistical information on the worker's illnesses and injuries and the division's inspection activities); and Employee Protection Bureau (responsible for child labor, wage payment and collection, minimum wage, employment agency licensing, workplace standards, asbestos removal and encapsulation contractor permits and licensing of professions engaged in removal and encapsulation, community and emergency response right to know, EPCRA, out-of-state construction contractor bonding, and construction contractor registration, *non-English speaking employee's rights, and death assessment collection*). The licensing and supervision of professional boxing and wrestling is the responsibility of the commissioner. Information may be obtained and submissions or requests may be made by contacting the Department of ~~Employment Services Workforce Development~~, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The telephone number is (515)281-3606. All correspondence and payment of fees and costs relating to the division shall be submitted directly to the division.

**ITEM 2. Rescind and reserve rule 875—1.4(17A).**

**ITEM 3. Adopt the following new division:**

DIVISION II  
PETITIONS FOR RULE MAKING

**ITEM 4. Renumber subrules 1.21(1) to 1.21(4) as rules 875—1.5(17A) to 875—1.8(17A), respectively. Amend rule 875—1.5(17A), numbered paragraph “6,” to read as follows:**

6. Any request by petitioner for a meeting provided for by ~~1.21(4) 875—1.8(17A)~~.

**ITEM 5. Reserve rules 875—1.9 and 875—1.10.**

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

DIVISION III  
OPEN RECORDS AND FAIR INFORMATION PRACTICES

**ITEM 7. Adopt new rules 875—1.11(22,91) to 875—1.23(22,91) as follows:**

**875—1.11(22,91) General provisions.**

**1.11(1) Statement of policy.** These rules are intended to implement Iowa Code chapter 22. Division staff shall cooperate with members of the public and other agencies in implementing the provisions of these rules.

**1.11(2) Scope of rules.** Rules 875—1.11(22,91) to 875—1.23(22,91) do not:

a. Require the division to index or retrieve records which contain information about an individual by that person's name or other personal identifier.

b. Make available to the general public a record which would otherwise not be available to the general public under Iowa Code chapter 22.

c. Govern a record in the possession of the division which is governed by the rules of another agency.

d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

e. Make available records compiled by the division in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the

## LABOR SERVICES DIVISION[347](cont'd)

general public or to any subject individual or party to the litigation or proceeding shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the division.

f. Apply to records which are not yet in existence.

g. Require the division to create, compile, or procure a record solely for the purpose of making it available.

h. Limit distribution of materials created or obtained by the division for the purpose of public distribution such as publications and lending materials.

**1.11(3) Warranty.** No warranty of the accuracy or completeness of any record is made.

**1.11(4) Definitions.**

“Agency” means any executive branch federal, state, or local governmental unit including, but not limited to, boards, commissions, departments and offices. Private employment agencies are not included.

“Confidential record” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the division is prohibited by law from making available for examination by members of the public. Also included are records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian, or by another person duly authorized to release the record. Inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Custodian” means the division or a person lawfully delegated authority to act for the division in implementing Iowa Code chapter 22.

“Division” means the division of labor services.

“Open record” means a record other than a confidential record.

“Personally identifiable information” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“Record” means the whole or a part of a division “public record” as defined in Iowa Code section 22.1.

“Record system” means any group of records under the control of the division from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

**875—1.12(22,91) Request for access to records.**

**1.12(1) Location of record.** A request for access to a record should be directed to the labor commissioner or the particular division office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to Iowa Division of Labor, 1000 E. Grand Avenue, Des Moines, Iowa 50319. If a request for access to a record is misdirected, division personnel will promptly forward the request to the appropriate person within the division.

**1.12(2) Office hours.** Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays.

**1.12(3) Request for access.** A request for access to open records shall identify the particular record sought by name or description in order to facilitate the location of the record. The custodian may require a request to be in writing. Written requests shall include the name, address, and telephone num-

ber of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

**1.12(4) Response to request.** The response to a request for a single, open record shall generally be immediate. If the size or nature of the request requires time for compliance, the custodian shall comply with the request as soon as feasible. Examples of situations where a request may be delayed include, but are not limited to, the following:

a. Searching for, collecting, and copying a voluminous amount of separate and distinct records included in a single request, especially if both confidential and open records are included.

b. Retrieving a record from archival storage.

c. Any of the purposes authorized by Iowa Code subsections 22.8(4) and 22.10(4).

d. Specialized reproduction of records such as but not limited to videotapes and audiotapes.

The custodian may deny access to the record by a member of the public only on the grounds that a denial is warranted under Iowa Code subsections 22.8(4) and 22.10(4), or that the record is a confidential record, or that disclosure is prohibited by a court order. Access by a member of the public to a confidential record is limited by law and may generally be provided only in accordance with the provisions of rule 875—1.13(22,91) and other applicable provisions of law.

**1.12(5) Security of record.** No requester may, without permission from the custodian, search or remove any record, nor may a requester reorganize or damage division records. Examination and copying of division records shall be supervised by the custodian.

**1.12(6) Copying.** A reasonable number of copies of an open record may be made in the division’s office. If appropriate equipment is not available in the division office where an open record is kept, the custodian shall permit its examination in that office and shall arrange for copies to be made. The division shall not copy materials where to do so may constitute a violation of law.

**1.12(7) Fees.**

a. When charged. The division may charge fees in connection with the examination or copying of records. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the division shall be available in division offices. Copies of records may be made for members of the public on division photocopy machines or from electronic storage systems at the posted cost. Actual costs of shipping may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual division expenses in searching for and supervising the examination and copying of requested records if time required is in excess of 15 minutes. The fee shall be based upon the pay scale of the employee involved and other actual costs incurred. The custodian shall make available in division offices the hourly fees to be charged.

d. Payment.

(1) The custodian may require a requester to make an advance payment to cover all or part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment in full of any amount previously due and advance payment of the full amount of an estimated fee chargeable

## LABOR SERVICES DIVISION[347](cont'd)

under this rule before the custodian processes a new request from that requester.

**875—1.13(22,91) Access to confidential records.** Under Iowa Code section 22.7 or other applicable provisions of law, the custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of the confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 875—1.12(22,91).

**1.13(1) Proof of identity.** A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

**1.13(2) Requests.** The custodian may require a request to examine or copy a confidential record to be made in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

**1.13(3) Notice to subject of record and opportunity to obtain injunction.** After the custodian receives a request for access to a confidential record, and before the custodian releases the record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent the delay is practicable and in the public interest, the custodian may give the subject a reasonable opportunity to seek an injunction under Iowa Code section 22.8 and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

**1.13(4) Request denied.** When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall provide notification, signed by the custodian, including:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A brief statement of the reasons for the denial.

**1.13(5) Request granted.** When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

**875—1.14(22,91) Requests for treatment of a record as a confidential record and withholding from examination.** The custodian may treat a record as a confidential record and withhold the record from examination and copying only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order.

**1.14(1) Persons who may request.** Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts the custodian is authorized to treat the record as confidential by Iowa Code section 22.7, another applicable provision of law, or a court order, may request the record be treated as a confidential record and be withheld from public inspection.

**1.14(2) Request.** A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and filed with the custodian. The request shall set forth the legal and factual basis justifying confiden-

tial treatment for the record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as a confidential record for a limited time period shall also specify the time period for which confidential treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the division by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

**1.14(3) Failure to request.** The custodian may treat a record as confidential even if no request has been received. However, if a person who has submitted business information to the division does not request that it be withheld from public inspection under Iowa Code section 22.7, the custodian of records containing that information may proceed as if that person has no objection to disclosure.

**1.14(4) Timing of decision.** A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record is filed, or when the custodian receives a request for access to the record by a member of the public.

**1.14(5) Request granted.** If a request for such confidential record treatment is granted, a copy of the record from which the matter in question has been redacted or deleted will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian may make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record of the request.

**1.14(6) Request denied.** If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, if a court directs the custodian to treat it as a confidential record, to the extent permitted by another applicable provision of law, or with the consent of the person requesting access. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record.

**875—1.15(22,91) Procedure by which additions, dissents, or objections may be entered into certain records.** Except as otherwise provided by law, a person may have a written

## LABOR SERVICES DIVISION[347](cont'd)

statement of additions, dissents, or objections entered into a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of a record to alter the original copy or to expand the official record of any division proceeding. Written statements of additions, dissents, or objections shall be sent to the custodian or to the Labor Commissioner, 1000 E. Grand Avenue, Des Moines, Iowa 50319. Written statements of additions, dissents, or objections must be dated and signed and shall include the current address and telephone number of the requester or the requester's representative.

**875—1.16(22,91) Consent to disclosure by the subject of a confidential record.** A person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party to the extent permitted by law. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of counsel before the division on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the division to disclose records about that person to the person's attorney.

A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the division may to the extent permitted by law be treated as an authorization to release relevant information about the subject to the official.

**875—1.17(22,91) Disclosure without the consent of the subject.** Disclosure of a confidential record may occur without the consent of the subject to the extent allowed by law. Following are instances where the division may disclose records without consent of the subject and usually without notice:

**1.17(1)** For a routine use as described in rule 875—1.19(22,91) or in the notice for a particular record system.

**1.17(2)** To another agency for a civil, administrative, or criminal law enforcement activity.

**1.17(3)** To a requester who has provided the division with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that the record is transferred in a form that does not identify the subject.

**1.17(4)** To a requester pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

**1.17(5)** To the legislative fiscal bureau under Iowa Code section 2.52.

**1.17(6)** In response to a court order or subpoena.

**1.17(7)** Disclosures in the course of division employee disciplinary proceedings.

**1.17(8)** To the citizens' aide under Iowa Code section 2C.9(3).

**875—1.18(22,91,77GA,SF2321) Availability of records.**

**1.18(1) General.** Any division record or portion of a record is an open record unless it is a confidential record as listed at 1.18(2). Any division record may be confidential, either in whole or in part, depending on its contents, except the following:

a. State performance activity measures; directives adopted by IOSH; and citations issued and received pursuant to Iowa Code chapter 88.

b. Operating permits and certificates of insurance relating to amusement devices or rides, concession booths, or related electrical equipment covered by Iowa Code chapter 88A.

c. List of permitted asbestos removal and encapsulation companies and asbestos ten-day notifications pursuant to Iowa Code chapter 88B.

d. Certificates of inspection concerning objects covered by Iowa Code chapter 89.

e. List of owners of facilities regulated under Iowa Code chapter 89A and related permits and certificates of insurance.

f. List of registered professional boxers and bonds filed by fight promoters pursuant to Iowa Code chapter 90A.

g. Lists of formerly registered construction contractors; bonds and certificates of insurance filed by construction contractors pursuant to Iowa Code chapter 91C; and citations issued pursuant to Iowa Code chapter 91C.

h. Iowa child labor Form III collected pursuant to Iowa Code chapter 92.

i. List of private employment agencies licensed pursuant to Iowa Code chapter 95.

j. Lists of publications and educational materials available to the public; unaltered copies of documents published by the division; administrative rules; interstate agreements and interagency agreements to which the division is a party; purchase requests; records concerning the transfer of files to archives; and speech records.

**1.18(2) Confidential records.** With the exception of "f," each of the following may contain personally identifiable information. Each of the following is confidential or partially confidential.

a. Records or portions of records which are exempt from disclosure pursuant to Iowa Code section 22.7.

b. Records or portions of records which are protected by Iowa Code section 88.1, 88.6, 88.12, 88.14, or 88.16.

c. Records or portions of records containing social security numbers which are protected by 42 U.S.C. Section 405(c)(2)(C)(viii).

d. Records or portions of records containing tax information which is protected by 26 U.S.C. Section 7213(a)(2) or Iowa Code section 422.20 or 422.72.

e. Records or portions of records which are protected pursuant to Iowa Code section 515A.13.

f. Pursuant to Iowa Code sections 17A.2 and 17A.3, those portions of division staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by division staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law;

or

(3) Give a clearly improper advantage to persons who are in an adverse position to the division.

g. Identifying details and trade secrets in final orders, decisions and opinions to the extent permitted by Iowa Code subsection 17A.3(1).

h. Records or portions of records containing attorney work product, attorney-client communications, or which are



## LABOR SERVICES DIVISION[347](cont'd)

otherwise privileged pursuant to Iowa Code sections 22.7(4), 622.10, and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), rules of evidence, case law, and the Code of Professional Responsibility.

- i. Minutes of closed meetings of a government body pursuant to Iowa Code section 21.5(4).
- j. Information protected by 42 U.S.C. 11044(a) or by Iowa Code sections 89B.12 and 13.
- k. Records of the bureau of labor statistics which were created or obtained pursuant to federal grants if release of the records would cause the denial of federal funds.
- l. Information protected by 77GA, SF2321.
- m. Any other information made confidential by law.

**875—1.19(22,91) Routine uses.** To the extent allowed by law, the following uses are considered routine uses of all division records:

**1.19(1)** Disclosure to government officers, employees, and agents who have a need for the record in the performance of their duties. The custodian of the record may upon request of any government officer, employee, or agent, or on the custodian's own initiative, determine what constitutes legitimate need to use a confidential record.

**1.19(2)** Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**875—1.20(22,91) Release to a subject.**

**1.20(1)** The subject of a confidential record may file a written request to review a confidential record about that person as provided in rule 875—1.12(22,91). However, the division need not release the following records to the subject:

- a. The identity of a person providing information to the division need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. A record need not be disclosed to the subject when it is the work product of an attorney or is otherwise privileged.
- c. A peace officer's investigative report may be withheld from the subject pursuant to Iowa Code section 22.7(5).
- d. As otherwise authorized by law.

**1.20(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the division may take reasonable steps to protect confidential information relating to another subject.

**875—1.21 (22,91) Notice to suppliers of information.** Required notice to suppliers of information is provided by this rule and may be provided by any other appropriate means such as letters, brochures, formal agreements, contracts, forms, handbooks, manuals, or statements. This division may share information with persons outside the division for any routine use as described at rule 875—1.19(22,91) and for releases under Iowa Code chapter 22. Information obtained by the division will be used to enforce and implement those provisions of law delegated to the labor commissioner.

All information the division deems necessary and requests to administer Iowa Code chapters 30 and 88 through 95 is required. Failure to provide requested information may result in any combination of the following:

1. Inability to provide desired assistance or services.
2. The division's seeking or issuing a subpoena or warrant.
3. The division's proceeding as though the information does not exist or exists but is detrimental to the person from whom the information was requested.

4. Appropriate actions or sanctions pursuant to relevant law.

5. Referrals.

**875—1.22(22,91) Data processing systems comparison.** The first reports of injury data systems shared between the labor services division and the workers' compensation division of the workforce development department permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Pursuant to Iowa Code chapter 252J, personally identifiable information about asbestos licensees, asbestos permittees, amusement ride permittees, boxers, special inspectors, registered construction contractors, and private employment agency licensees found in data processing systems may be matched, collated, or compared with personally identifiable information in data processing systems maintained by the child support recovery unit of the department of human services. All data processing systems that have common data elements can potentially match, collate, and compare personally identifiable information.

**875—1.23(22,91) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information collected, maintained, and retrieved from division record systems by personal identifier. Except as noted below, record systems are partially open and partially confidential. Except as noted below, information is stored on paper and electronically.

**1.23(1)** Personally identifiable information concerning some facility owners who file tier II reports is collected pursuant to Iowa Code section 30.12. The information concerns hazardous materials at the facility.

**1.23(2)** Personally identifiable information concerning employers who requested services from the consultation and education bureau is collected pursuant to Iowa Code chapter 88. The information concerns services provided by the bureau. The record system is confidential.

**1.23(3)** Personally identifiable information concerning employees who filed discrimination complaints and employers against whom discrimination complaints were filed is collected pursuant to Iowa Code chapter 88. The information relates to the relevant division inspection.

**1.23(4)** Personally identifiable information concerning employers whose workplaces have been inspected by the IOSH enforcement bureau is collected pursuant to Iowa Code chapter 88. The information relates to the enforcement inspection.

**1.23(5)** Personally identifiable information concerning work-related fatalities is collected pursuant to Iowa Code section 88.18. The information includes biographical data about the deceased and information concerning the IOSH fatality inspection.

**1.23(6)** Personally identifiable information concerning owners or operators of amusement devices or rides, concession booths, or related electrical equipment covered by Iowa Code chapter 88A is collected pursuant to that chapter. The information pertains to the division's inspections.

**1.23(7)** Personally identifiable information concerning asbestos licensees and permittees is collected pursuant to Iowa Code chapter 88B. Biographical information concerning the asbestos licensees and permittees and information concerning the licenses and permits is included.

Personally identifiable information concerning asbestos licensees and permittees against whom disciplinary action has been taken or attempted is collected pursuant to Iowa Code chapter 88B. The disciplinary action files are stored on

## LABOR SERVICES DIVISION[347](cont'd)

paper and contain information concerning division investigations, reprimands, suspensions, revocations, denials, and related litigation.

**1.23(8)** Personally identifiable information concerning boiler special inspectors against whom disciplinary action has been taken or attempted is collected pursuant to Iowa Code chapter 89. The record system is stored on paper and contains information concerning division investigations, reprimands, suspensions, revocations, denials, and related litigation.

**1.23(9)** Personally identifiable information concerning special inspectors is collected pursuant to Iowa Code chapters 89 and 89A. The record systems are stored on paper and contain biographical information on special inspectors, information on their commissions, and, when applicable, certificates of insurance.

**1.23(10)** Personally identifiable information concerning owners and operators of facilities and objects covered by Iowa Code chapters 89 and 89A is collected pursuant to those chapters. The information concerns division regulation of covered objects and facilities.

**1.23(11)** Personally identifiable information concerning individuals who are certified to perform safety tests or are recognized elevator companies is collected pursuant to Iowa Code chapter 89A. The information is maintained on paper and includes biographical data and information on the certification or recognition.

**1.23(12)** Personally identifiable information concerning registered boxers is collected pursuant to Iowa Code chapter 90A. The information includes biographical data and information pertaining to the registration.

**1.23(13)** Personally identifiable information concerning division employees and former employees is collected pursuant to Iowa Code chapter 91. The information is stored on paper and includes biographical data, medical records, qualifications, and tax information. The record system is confidential.

**1.23(14)** Personally identifiable information concerning wage claimants, wage discrimination complainants and individual employers against whom wage claims or wage discrimination complaints have been filed is collected pursuant to Iowa Code chapter 91A. The information includes biographical data and information on the division's investigations.

**1.23(15)** Personally identifiable information concerning owners, partners, and officers in construction contractor registrants is collected pursuant to Iowa Code chapter 91C. The information includes biographical data and information about the registration.

Personally identifiable information concerning individual out-of-state contractors who have filed bonds is collected pursuant to Iowa Code chapter 91C. The information is stored on paper and relates to the bonds. The record system is open.

Personally identifiable information concerning individuals who have been cited under Iowa Code chapter 91C is collected pursuant to that chapter. The information includes biographical data and information concerning the citations and relevant litigation.

**1.23(16)** Personally identifiable information concerning private employment agency licensees is collected pursuant to Iowa Code chapter 95. The information includes biographical data and information about the private employment agency license.

ITEM 8. Reserve rules 875—1.24 to 875—1.26.

ITEM 9. Adopt the following new division:

DIVISION IV  
DECLARATORY RULINGS

ITEM 10. Renumber subrules 1.22(1) to 1.22(7) as rules 875—1.27(17A) to 875—1.33(17A) respectively.

ITEM 11. Amend rule 875—1.27(17A), numbered paragraph "8," to read as follows:

8. Any request by petitioner for a meeting provided for by 1.22(4) 875—1.30(17A).

ITEM 12. Rescind and reserve rules 875—1.50(22,91) to 875—1.65(22,91).

ITEM 13. Renumber rules 347—2.1(88) to 347—2.6(88) as 875—2.1(88) to 875—2.6(88).

ITEM 14. Amend rule 875—2.1(88) as follows:

**875—2.1(88) Scope and application.** This chapter describes the procedures, functions, and personnel of the bureaus and sections of the division of labor services of the department of ~~employment services~~ *workforce development*: (1) IOSH Enforcement; (2) IOSH Research and Statistics; (3) IOSH Private Sector Consultative Services; (4) IOSH Public Sector Consultative Services and (5) IOSH Education. Substantive rules for each of these divisions are located in Chapters 3, 4, 5, 8, 9, 10, 26, 27, and 28, 110, and 120.

ITEM 15. Amend subrule 2.2(1), paragraph "b," to read as follows:

b. Labor safety officers (LSOs). LSOs are responsible for planning, development, and administration of comprehensive safety and health enforcement programs. The two LSOs ~~are the supervisors of~~ *direct* the two sections: the occupational safety enforcement section and the occupational health enforcement section. They also ~~have~~ *direct supervision over* the activities of the compliance safety and health officers.

ARC 8351A

## LABOR SERVICES DIVISION[347]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

The amendment relates to standards improvement (miscellaneous changes) for general industry and construction standards; paperwork collection for coke oven emissions and inorganic arsenic.

If requested by October 13, 1998, a public hearing will be held on October 15, 1998, at 9 a.m. in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed amendment. Written data or arguments to be considered in adoption may be submitted by interested persons

## LABOR SERVICES DIVISION[347](cont'd)

no later than October 15, 1998, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

The Division has determined that this Notice of Intended Action may have an impact on small business. This amendment will not necessitate additional annual expenditures exceeding \$100,000 by any one political subdivision or agency or any contractor providing services to political subdivisions or agencies.

The Division will issue a regulatory flexibility analysis as provided by Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than October 14, 1998, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

This amendment is intended to implement Iowa Code section 88.5.

The following amendment is proposed.

Amend rule 347—10.20(88) by inserting at the end thereof:

63 Fed. Reg. 33467 (June 18, 1998)

## ARC 8352A

## LABOR SERVICES DIVISION[347]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The amendment relates to standards improvement (miscellaneous changes) for general industry and construction standards; paperwork collection for coke oven emissions and inorganic arsenic and occupational exposure to asbestos.

If requested by October 13, 1998, a public hearing will be held on October 15, 1998, at 9 a.m. in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed amendment. Written data or arguments to be considered in adoption may be submitted by interested persons no later than October 15, 1998, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

The Division has determined that this Notice of Intended Action may have an impact on small business. This amendment will not necessitate additional annual expenditures exceeding \$100,000 by any one political subdivision or agency or any contractor providing services to political subdivisions or agencies.

The Division will issue a regulatory flexibility analysis as provided by Iowa Code section 17A.31 if a written request is

filed by delivery or by mailing postmarked no later than October 14, 1998, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

This amendment is intended to implement Iowa Code section 88.5.

The following amendment is proposed.

Amend rule 347—26.1(88) by inserting at the end thereof:

63 Fed. Reg. 33468 (June 18, 1998)

63 Fed. Reg. 35138 (June 29, 1998)

## ARC 8337A

## LIBRARIES AND INFORMATION SERVICES DIVISION[286]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 256.52, the Commission of Libraries hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation"; Chapter 2, "Public Records and Fair Information Practices"; and Chapter 3, "Statewide Programs and Agreements"; to rescind Chapter 6, "Library Services and Construction Act (LSCA) Grant Program" and adopt a new Chapter 6, "Library Services and Technology Act (LSTA) Program"; and to adopt a new Chapter 7, "Internet Use Policy," Iowa Administrative Code.

The proposed amendments reflect changes in the Code of Iowa and establish procedures for information delivery, resource sharing, a new federally funded program for libraries, and the state library's Internet use policy.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 13, 1998. Such written suggestions or comments on the proposed amendments should be directed to the Commission of Libraries, East 12th and Grand Avenue, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact Sharman B. Smith at (515)281-4105.

These amendments are intended to implement Iowa Code sections 256.50 to 256.56.

The following amendments are proposed.

ITEM 1. Amend rule 286—1.1(256) by striking the definition of "LSCA" and inserting the following new definition:

"LSTA" means the Library Services and Technology Act Grant Program as defined by P.L. 104-208 (1997).

ITEM 2. Amend rule 286—1.2(256) as follows:

**286—1.2(256) Mission.** ~~The mission of the state library is to promote excellence in libraries and library services to Iowans; foster the development of statewide cooperative ser-~~

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

ices and shared resources among libraries; and meet the informational needs of the three branches of government and Iowa's medical and legal communities. The mission of the state library is to advocate for Iowa libraries and promote excellence and innovation in library services in order to provide statewide access to information for all Iowans.

ITEM 3. Amend subrule 1.3(2) as follows:

**1.3(2) Sections. Units.** The state library consists of ~~eight sections~~ *seven units*: library development (includes the ~~Library Services and Construction Act Grant Program LSTA Grant Program~~, public library accreditation, library staff certification, Open Access, Access Plus, continuing education and consulting); ~~networking (includes the Iowa Locator, the Iowa Fax Network, and Iowa Resources and Information Sharing (IRIS))~~; information services (includes *public policy*, state medical, federal documents, state documents, and patents depository collections); the state law library; technical services (includes the state documents depository program); the state data center; audiovisual services; and administration.

ITEM 4. Amend subrule 1.3(3) as follows:

**1.3(3) Commission on of libraries.** The commission ~~on~~ of libraries consists of ~~seven~~ *eight* members as defined in Iowa Code section 256.52. The commission shall meet at a time and place specified by the chair. Notice of a meeting and the agenda will be posted at the state library at least ~~ten days~~ *24 hours* prior to the meeting and shall be mailed to any interested individual or organization upon request. The operation of commission meetings shall be governed by the following procedures:

- a. A quorum shall consist of ~~four~~ *five* members.
- b. Any action taken by the commission requires an affirmative vote by at least ~~four~~ *five* members.
- c. and d. No change.

ITEM 5. Amend subrule 1.4(1) as follows:

**1.4(1)** Photocopies of library materials for Iowa residents. The state library will provide library service to any resident of Iowa. To ensure the availability of high-demand library materials for in-house use, the state library may choose not to lend specific library items. In lieu of lending the original item, the library may choose to provide a photocopy of the requested material at a nominal charge of *20 cents per page. Materials may be faxed at a cost of \$2 for the first page and \$1 for each additional page including the cover sheet.* ~~Fax and~~ Priority delivery services may also be requested by the borrower at additional expense.

ITEM 6. Amend subrule 1.4(2) as follows:

**1.4(2)** Photocopies of library materials for nonresidents of Iowa. To encourage interstate resource sharing, the state library may enter into reciprocal free interlibrary loan photocopy agreements with out-of-state libraries. For other out-of-state businesses and residents, the state library will charge the following fees:

First 10 pages	\$5.00	7 minimum
11-20	<del>6.50</del>	9
21-30	<del>8.00</del>	10
31-50	<del>10.00</del>	12
Over 50	<del>10.00 plus 15¢ per page</del>	12 plus 20¢ per page

*Materials may be faxed (no more than 20 pages) at a cost of \$2 for the first page and \$1 for each additional page including the cover sheet.*

~~Fax and~~ Priority delivery services may also be requested by the borrower at additional cost to the borrower.

This rule shall not preclude the state library from participating in interstate library compacts to support reciprocal resource sharing.

ITEM 7. Amend **286—2.1(17A,22)** by adding the following new definition:

“Custodian of the record” means the state librarian.

ITEM 8. Amend subrule 2.15(1) as follows:

**2.15(1)** Council, board, and commission records. Agendas, minutes, and materials presented to the ~~state library~~ *commission of libraries* are available from the state library, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Council and commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

ITEM 9. Amend **286—Chapter 3, Background**, as follows:

**BACKGROUND**

The state library is charged with developing long-range plans for the continued improvement of library services in the state. The most recent long-range ~~plan was~~ *plans were* entitled “~~Iowa Libraries: A Time to Grow, 1985-90.~~” “*Unified Plan for Library Service in Iowa*” and the “*LSTA Five Year Plan.*” The major ~~accomplishments from that~~ *outcomes of these* planning ~~effort~~ *efforts* include the ~~development of the interlibrary loan system and the statewide computerized card catalog, maintenance of SILO, the establishment of a voluntary certification program for public librarians, and the establishment~~ *continued development of standards for public libraries which includes a voluntary accreditation program.*

Based on existing programs and services, the current planning effort addresses the state library’s role in promoting and developing library services in the state, coordinating interlibrary cooperation, and providing Iowans with access to the publications of state government. The state library’s other roles, such as meeting the information needs of the three branches of state government and providing census, patent, legal and medical information, are not addressed in this document.

See: ~~Blueprints for the Future: A Long Range Plan for the State Library of Iowa 1992-1996. State Library of Iowa, 1992. Unified Plan for Library Service in Iowa, 1994, and the LSTA Five-Year Plan. State Library of Iowa, 1998.~~

ITEM 10. Rescind rule 286—3.1(256) and adopt the following new rule in lieu thereof:

**286—3.1(256) State of Iowa Libraries Online (SILO).** Purpose is to provide electronic access to Iowa’s library resources and to electronic information resources. Includes an electronic “card catalog” and associated electronic interlibrary loan system to facilitate the identifying and requesting of library materials among Iowa libraries. Delivers statewide library access to numerous citation and full text databases.

ITEM 11. Rescind and reserve rule **286—3.2(256)**.

ITEM 12. Rescind and reserve rule **286—3.5(256)**.

ITEM 13. Amend rule 286—3.6(256) as follows:

**286—3.6(256) In Service to Iowa: Public Library Measures of Quality.** Purpose is to provide performance measures to encourage the ongoing development of quality *public* library service in the state. By identifying policies, service

## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

levels, role selection and output measures, consistency and quality in all aspects of *public* library service can be achieved.

See: In Service to Iowa: Public Library Measures of Quality. 2d 3d ed. State Library of Iowa, 1989 1997.

ITEM 14. Amend subrule 3.8(2) as follows:

**3.8(2) Procedures.**

a. ~~The manual and promotional materials are developed around a theme. An advisory committee provides advice to the state library regarding this program.~~

b. ~~Participating libraries receive a base package of materials (manual, posters, bookmarks, and related materials). Additional quantities are available for purchase. Orders for materials are cumulated prior to printing. Working with a multistate cooperative, the manual and promotional materials are developed around a theme.~~

c. ~~Program materials are publicized and promoted through announcements in footnotes, the state library newsletter. Participating libraries may purchase theme materials (manuals, posters, bookmarks, and related materials).~~

d. ~~The program is publicized and promoted through the state library's newsletter and through regional workshops each year.~~

ITEM 15. Amend rule 286—3.9(256) as follows:

Amend subrule 3.9(4), paragraph "d," as follows:

d. Depository libraries may be selected on the basis of one or more of the following criteria:

(1) Geographic location consistent with a policy of distributing depositories so as to minimize the *travel* distance of a user. ~~would need to travel.~~

(2) Demonstrated ability to handle the receipts desired based on size of collection, identified need of the library's clientele, and the availability of space, staff and equipment.

(3) ~~Demonstrated need/value to state of placing depository collection in facility.~~

~~(3)(4) Present federal depository status.~~

(4) Upon approval of the application, a contract with the depository library shall be completed.

Further amend 286—3.9(256) by striking the reference at the end thereof as follows:

~~See: Blueprints for the Future: A Long Range Plan for the State Library of Iowa 1992-1996. State Library of Iowa, 1992.~~

ITEM 16. Rescind 286—Chapter 6 and adopt the following **new** Chapter 6:

CHAPTER 6

LIBRARY SERVICES AND TECHNOLOGY

ACT (LSTA) PROGRAM

**286—6.1(256) Description.** The Library Services and Technology Act (LSTA) program is an annual, federally funded program which provides assistance to libraries and library programs in Iowa. The purpose of the Library Services and Technology Act is to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages. The federal LSTA program, authorized by P.L. 104-208 (H.R. 3610) and enacted September 30, 1997, supersedes the Library Services and Construction Act (LSCA).

**6.1(1)** The state library administers and uses the state-based LSTA funds (in any proportion) directly or through subgrants or cooperative agreements for the purposes of

a. Establishing or enhancing electronic linkage among or between libraries;

b. Electronically linking libraries with educational, social, or information services;

c. Assisting libraries in accessing information through electronic networks;

d. Encouraging libraries in different areas, and encouraging different types of libraries to establish consortia and share resources; and

e. Paying costs for libraries to acquire or share computer systems and telecommunications technologies.

**6.1(2)** The state library targets library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line.

**286—6.2(256) Advisory councils.**

**6.2(1)** State LSTA advisory council. The LSTA advisory council meets at least annually. The state library when desiring assistance in the program may also call meetings of the LSTA advisory council. The council members are appointed by the state librarian and are broadly representative of the library entities in the state, including public, school, academic, special, and institutional libraries.

The council aids the state library in identifying the needs of the Iowa library community and provides suggestions for meeting those needs in accordance with the basic guidelines of the Five-Year Plan for the Use of Library Services and Technology Act (LSTA) Funds. The council also assists the state library in evaluating LSTA programs and activities and assists the state library in the five-year-plan evaluation.

**6.2(2)** State SILO advisory committee. The SILO advisory committee shall consist of representatives of the Iowa library community.

The SILO advisory committee reviews the technology needs of Iowa libraries and provides suggestions for meeting those needs in accordance with the basic guidelines of the Five-Year Plan for Use of Library Services and Technology Act (LSTA) Funds.

**286—6.3(256) Process.** The state library administers and uses the state-based LSTA funds (in any proportion) directly or through subgrants or cooperative agreements. The actual amount, timing, and availability of funds for projects is determined by the state library of Iowa in consultation with the LSTA advisory council and the Iowa library community. In accordance with the principles set forth in the basic guidelines of the Five-Year Plan for the Use of Library Services and Technology Act (LSTA) Funds, individual grants are not anticipated. However, when individual grants are deemed to be the appropriate vehicle to meet the identified needs as well as the intent of the guidelines, information on grants will be published and distributed statewide.

**6.3(1)** Eligibility. Eligibility of projects will be determined by the Five-Year Plan for the Use of Library Services and Technology Act Funds. The use of the funds will have a major impact on library service to Iowans; increase access to information; have a statewide benefit; foster cooperation, resource sharing, and partnerships; involve all types and sizes of libraries; encourage innovation; and emphasize evaluation.

**6.3(2)** Reporting procedures. All LSTA grant recipients shall submit to the state library documentation of LSTA project-related expenses and periodic and final project reports. LSTA-funded projects are subject to on-site monitoring by state library personnel.

**6.3(3)** Informal appeals. Informal appeals shall be made on procedural grounds only. Such grounds include alleged

## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

conflicts of interest, unfair or impartial treatment of applications or procedures not uniformly applied to all applicants.

**6.3(4) Informal appeal hearing.** A written request for an informal appeal hearing should be sent to the state librarian. The hearing shall be held within 15 calendar days of the date of the request during regular business hours of the state library. The hearing shall be held before the state librarian or such members of a review board as the state librarian designates. The state librarian shall:

- a. Notify the appellant as to the day, hour, and location of the hearing;
- b. Inform the appellant of the right to submit any written documents regarding the application;
- c. Inform the appellant that a spokesperson must be appointed if the appeal involves more than one person per project. The state librarian or designees shall direct questions only to the spokesperson during the hearing. Any other discussion or comments shall be reserved for a closed executive session. No indication of decision shall be given at the time of the hearing;
- d. Notify the appellant in writing of the decision of the state librarian or designee within five calendar days of the hearing.

**6.3(5) Formal appeal.** A formal appeal of the LSTA decision may be made to the Iowa commission of libraries.

- a. The appellant's argument should contain:
  - (1) The facts of the appeal;
  - (2) An argument in favor of the appeal;
  - (3) The remedy sought.
- b. Appeals will be allowed on the procedural grounds that:
  - (1) Staff of the state library or the advisory council acted outside the statutory authority;
  - (2) Projects do not fall within the guidelines of the five-year plan;
  - (3) Staff of the state library or advisory council were influenced to act as a result of a conflict of interest;
  - (4) Staff of the state library or the advisory council acted in a biased or unfair manner.
- c. The commission will consider and rule on the appeal after receiving all documentation from the appellant and will notify the appellant in writing of the decisions within 30 days. The decision of the commission is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code section 256.51(2)(b).

ITEM 17. Adopt the following new Chapter 7.

**CHAPTER 7**  
**INTERNET USE POLICY**  
**PURPOSE**

Access to the Internet is provided to enhance the state library's collections of information resources. It is intended for the educational and informational use of the library's customers. Sales activity, distribution of advertising and those unapproved uses defined under the Code of Iowa are prohibited. (See Iowa Code chapter 728)

**286—7.1(256) Rights and responsibilities.**

**7.1(1)** The state library expects the use of all its electronic sources such as the Internet to be responsible, ethical, and legal, and consistent with the purpose for which those resources are provided. To this end:

- a. The state library affirms the right of every individual to have access to constitutionally protected material as stated in the library's collection development policy.

- b. Parents or guardians, not the library or its staff, are responsible for the Internet use by their children.

- c. Internet access is provided in a public area shared by users of all ages, backgrounds, and sensibilities. Users should consider this when accessing potentially controversial information and images.

- d. The state library reserves the right to ask users to discontinue the display of information and images which cause a disruption.

- e. Users should respect the privacy of other Internet users by not observing what sites others are accessing.

- f. Users will not misrepresent themselves as any other user; will not attempt to modify or gain access to files, passwords, or data belonging to others; will not seek unauthorized access to any computer system, or damage or alter software components of any network or database.

- g. Illegal activities subject to prosecution include:

- (1) Destruction of or damage to equipment, software, or data belonging to the library;
- (2) Violation of computer system security or system configuration;
- (3) Violation of the copyright laws of the United States;
- (4) Downloading or provision of child pornography or display of pornography where it may be seen by children.

**7.1(2)** Violation of this computer use policy shall result in the loss of computer privileges and may lead to financial responsibility. Illegal activities will be prosecuted.

**286—7.2(256) Access to Internet computers.**

1. The Internet is available for any user who visits the state library. Access is on a first-come, first-served basis. Appointments are not accepted, but users are welcome to call ahead to check availability.

2. Internet computers are available for use during the library's normal business hours. Use must be completed 15 minutes prior to the library's closing. The Internet may be unavailable due to unforeseen problems with hardware, software or telecommunications.

3. Users may be asked to log their beginning time at the main desk before using the computer for Internet access. Initial use will be limited to one hour. If no other users are waiting, use time may be extended at the discretion of the librarian on duty.

4. While respecting individual users' right to privacy, state library staff reserves the right to monitor use of Internet workstations to ensure compliance with this policy. Staff may ask users to remove themselves from library equipment if observed behavior is in conflict with this policy.

5. Staff use of computers for research and maintenance may, at times, supersede users' access.

**286—7.3(256) Costs.** Floppy disks are available for \$1 per disk. Users must purchase a clean disk from the main desk for downloading. Users cannot use their own disks. Printing is available for 20 cents per page and must comply with U.S. copyright laws.

**286—7.4(256) Internet services available.**

1. Users may access the Internet via the World Wide Web, telnet, and gopher.

2. The library does not offer access to electronic mail, Usenet newsgroups, interactive chat rooms, or electronic commerce. All bookmarks or "favorite sites" will be deleted on a regular basis.

**286—7.5(256) Downloading and saving files.** Downloading will be allowed only for selected files, such as census data or government documents not available in print format. Such

## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

files may be saved only to floppy disk on the A: drive, never to the hard disk. Users must purchase a clean disk from the main desk for downloading. Users cannot use their own disks. Downloaded files cannot be viewed on the state library computers. Users cannot load or read their own disks on the state library computers.

Downloaded files may contain viruses. The state library is not responsible for damage to a user's computer, or for any loss of data or damage to files on a user's computer as a result of downloaded files.

**286—7.6(256) Staff assistance.**

1. Users are expected to have a basic knowledge of computer use and the Internet. Staff cannot provide in-depth training for users, but will provide information on training classes in the area. An online tutorial will be available for users not familiar with the Internet.

2. State library staff will answer basic questions about Internet use or help locate resources. Internet reference books are available in the library's collection.

3. Staff reserve the right to waive the procedures contained in this document as circumstances warrant.

These rules are intended to implement Iowa Code sections 256.51 to 256.56.

**ARC 8347A****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 152C.3 and 147.76, the Iowa Board of Examiners for Massage Therapy hereby gives Notice of Intended Action to amend Chapter 130, "Massage Therapists," and Chapter 131, "Continuing Education and Disciplinary Procedures," Iowa Administrative Code.

The amendments provide language converting the existing advisory board for massage therapists into full regulatory examining board status.

Any interested person may make written comments on the proposed amendments on or before October 13, 1998, addressed to Sharon Cook, Bureau of Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319.

A public hearing will be held on October 13, 1998, from 10 a.m. to 12 noon in the Hoover State Office Building, Level A South Conference Room, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

The Board has determined that the amendments will have no impact on small business within the meaning of Iowa Code section 17A.31C.

The amendments are intended to implement Iowa Code chapters 152C and 147 as amended by 1998 Iowa Acts, Senate File 2269, and chapters 272C and 17A.

The following amendments are proposed.

ITEM 1. Amend rule ~~645—130.1(152C)~~, definition of "Board," as follows:

"Board" means the *board of examiners for massage therapy advisory board*.

ITEM 2. Amend subrule 130.3(2) as follows:

~~130.3(2) The application forms fully completed per instructions on the forms shall be filed with the Massage Therapy Office, Professional Licensure Division, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Application requirements are as follows:~~

a. Submit a completed application form with official supporting documents and the fee listed in rule 130.10(152C).

b. Present *with the application* an official transcript proving graduation from a school or schools approved by the ~~department board~~ under rule 130.5(152C). However, this requirement is waived for applicants for licensure who have already been issued a temporary license.

c. If licensed in another state, also present with the application an official copy of license and current renewal of license to practice massage therapy issued by the other state(s) and an official statement issued by the licensing board or department that no disciplinary action is pending against the applicant and the applicant does not have a suspended or revoked massage therapy license.

d. Show proof of passing the ~~department board~~ approved examination:

(1) The National Certification Examination for Therapeutic Massage and Bodywork administered by the testing service contracting with the National Certification Board for Therapeutic Massage and Bodywork. Proof of passing must be sent directly from the testing service to the division of professional licensure. The passing score on the *written* examination shall be the passing point criterion established by the national testing authority at the time the test was administered.

(2) Reserved.

ITEM 3. Amend subrule 130.3(3) as follows:

~~130.3(3) The department board may consider applications which do not appear on their face to meet rule requirements on a case-by-case basis if the requirements may be alternatively satisfied by demonstrated equivalency. The burden shall be on the applicant to document that the applicant's education and experience are substantially equivalent to the requirements which may be alternatively satisfied. If approved by the department board, applicants considered under this paragraph may meet the examination requirement by successfully completing a practical or an oral examination approved and conducted by the board and approved by the department.~~

ITEM 4. Adopt new subrule 130.3(4) as follows:

**130.3(4)** At the time a license is issued and on each renewal thereof, an identification card, bearing the expiration date of the license or renewal, will be issued to each license holder which shall be required to be kept in the possession of the licensee at all times during the performance of duties. On the request of any client or prospective client, a board of examiners for the licensing and regulation of massage therapy, state public health department employee, or any peace officer, the licensee shall permit the identification card to be inspected for the purpose of identification or as proof that all current fees have been paid.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 5. Amend subparagraph 130.4(1)"b"(3) as follows:

(3) A certified copy of the scores from the appropriate professional examination to be sent to the ~~department~~ board, if applicable.

ITEM 6. Amend paragraph 130.4(1)"c" as follows:

c. An applicant shall submit the required fee, as listed in rule 130.10(152C), in the form of a check or money order made payable to the Iowa ~~Department of Public Health Board of Examiners for Massage Therapy~~.

ITEM 7. Amend paragraph 130.4(2)"a" as follows:

a. The applicant must complete all items required in paragraphs 130.4(1)"a" to "~~d.~~" "c."

ITEM 8. Amend subrule 130.5(2), introductory paragraph, as follows:

130.5(2) Approval may be granted by the ~~department~~ board if the curriculum satisfies the following:

ITEM 9. Amend paragraph 130.5(2)"g" as follows:

g. If an approved school alters its curriculum from that submitted and approved by more than 25 percent of total course hours, it must submit those changes to the ~~Department~~ board for approval prior to implementation.

ITEM 10. Amend paragraphs 130.5(2)"i" and 130.5(2)"j" as follows:

i. Should the ~~Department~~ board find that an approved curriculum school is not providing the courses, and hours it has submitted on its application, the ~~Department~~ board may revoke, suspend or put on probation approval of the school's curriculum. Revocation will be for a minimum of six consecutive months from the date of determined noncompliance. At the end of the revocation period, the school may reapply for approval of a massage therapy program according to the rules in effect at the time of the reapplication.

j. All approved schools providing massage therapy curriculum which operate within the state of Iowa must update their existing applications to be in compliance with this rule. The ~~department~~ board will notify all approved schools providing massage therapy curriculum within four weeks after this rule is adopted. Schools will have four months from the date of notification to submit the necessary documentation to verify compliance.

ITEM 11. Amend subrule 130.6(1) as follows:

130.6(1) The biennial license shall be renewed every two years on the anniversary date of the original license. *Those originally licensed in the even year will renew in the even year; those licensed in the odd year will renew in the odd year.* The continuing education period shall run concurrently with each renewal period.

ITEM 12. Amend subrule 130.6(2) as follows:

130.6(2) Licensees who have met continuing education requirements for the biennium and wish to have their licenses renewed shall complete the ~~department~~ board-approved renewal form and the ~~department~~ board-approved continuing education report and return them to professional licensure, department of public health.

ITEM 13. Amend rule 645—130.7(152C) as follows:

**645—130.7(152C) Inactive practitioners.** A licensee who is not engaged in the active practice of the ~~profession~~ *massage therapy* in the state of Iowa residing within or outside the state of Iowa may place the license on exempt (inactive) sta-

tus and be granted an exemption upon written notification to the ~~department~~ board of massage therapy.

ITEM 14. Amend subrule 130.8(1) as follows:

130.8(1) Submit written application for reinstatement to the ~~department~~ board upon forms provided by the ~~department~~ board of massage therapy; and

ITEM 15. Amend rule 645—130.9(152C), introductory paragraph, as follows:

**645—130.9(152C) Reinstatement of lapsed licenses.** Application for reinstatement of a lapsed license may not preclude disciplinary actions by the ~~department~~ board as provided in 645—Chapter 131.

ITEM 16. Adopt new subrule 130.10(12) as follows:

130.10(12) Fee for a returned check is \$15.

ITEM 17. Amend subrule 131.1(2) as follows:

131.1(2) Each person licensed to practice massage therapy in this state shall complete during each continuing education compliance period a minimum of 12 hours of continuing education approved by the ~~department~~ board. Compliance with the requirement of continuing education is a prerequisite for license renewal for each subsequent license renewal period.

ITEM 18. Rescind and reserve subrule 131.1(7).

ITEM 19. Amend 131.2(2) as follows:

131.2(2) It pertains to common subjects or other subject matters which integrally relate to the practice of the profession as defined in Iowa Code section 152C.1, paragraph 4; and

ITEM 20. Amend subrule 131.2(6) as follows:

131.2(6) The ~~department~~ board may monitor and review any continuing education program already approved. Upon evidence of significant variation in the program presented from the program approved, the ~~department~~ board may disapprove all or any part of the approved hours granted the program.

ITEM 21. Adopt new subrule 131.2(7) as follows:

131.2(7) Procedures for approval of continuing education programs. An organization, educational institution, agency, individual, or licensee that desires approval of a continuing education program prior to its presentation shall apply for approval to the massage therapy office at least 60 days in advance of the commencement of the program on a form provided by the board, including a time schedule, outline, and the qualifications of the instructors. The massage therapy board shall approve or deny the application in writing within 30 days of receipt of the application.

ITEM 22. Amend paragraph 131.3(3)"a" as follows:

a. ~~After each educational biennium, the department~~ The board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

ITEM 23. Amend paragraph 131.3(3)"d" as follows:

d. The licensee must make the following information available to the ~~department~~ board for auditing purpose:

- (1) Date, place, course title, schedule, presenter(s).
- (2) Number of contact hours for program attended.
- (3) Official signature of sponsor and primary presenter indicating successful completion of course.

ITEM 24. Rescind rule 645—131.4(152C) and adopt the following new rule in lieu thereof:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—131.4(152C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within 20 days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board. The decision of the board shall be final.

ITEM 25. Amend rule 645—131.5(152C) as follows:

**645—131.5(152C) Disability or illness.** The ~~department board~~, in individual cases involving disability or illness, may grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill them or make the required reports. No waiver or extension of time shall be granted unless written application ~~shall be~~ *is* made on forms provided by the department board and signed by the licensee and an appropriately licensed health care professional, and the waiver is acceptable to the department board. Waivers of the minimum continuing education requirements may be granted by the department board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of the waiver granted, the licensee must reapply for an extension waiver. The ~~department board~~ may, as condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived.

ITEM 26. Amend rule 645—131.7(152C) as follows:

**645—131.7(152C) Report of malpractice claims or actions or disciplinary actions.** Each licensee shall submit to the ~~department board~~ a copy of any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state within 30 days after such occurrences.

ITEM 27. Rescind rule 645—131.8(152C) and adopt the following new rule in lieu thereof:

**645—131.8(152C) Investigation of complaints or malpractice claims.** The chair of the board of examiners for massage therapy 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 inspections and appeals 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 board member investigates the complaint, the director of professional licensure division, 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.

ITEM 28. Rescind rule 645—131.9(152C) and adopt the following new rule in lieu thereof:

**645—131.9(152C) Alternative procedure and settlement.**

**131.9(1) Informal settlement—parties.** A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by the prosecuting attorney, the respondent, or the board. The board may authorize a board member to assist with negotiations toward a settlement. The board is not involved in negotiations until presentation of a final, written form to the full board for approval.

**131.9(2) Informal settlement—waiver of notice and opportunity to be heard.** Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board.

**131.9(3) Informal settlement—board approval.** All informal settlements are subject to approval of the majority of the full board. No informal settlement shall be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it shall be of no force or effect to either party.

ITEM 29. Rescind rule 645—131.10(152C) and adopt the following new rule in lieu thereof:

**645—131.10(152C) License denial.** Any request for a hearing before the board concerning the denial of a license shall be submitted by the applicant or school, in writing, to the board by certified mail, return receipt requested, within 30 days of the mailing of a notice of denial of license.

ITEM 30. Rescind rule 645—131.11(152C) and adopt the following new rule in lieu thereof:

**645—131.11(152C) Notice of hearing.** If there is a finding of probable cause for a disciplinary hearing by the investigating board member or by the department, the board shall prepare the notice of hearing and transmit the notice of hearing to the respondent by certified mail, return receipt requested, at least 20 days before the date of the hearing.

ITEM 31. Rescind rule 645—131.12(152C) and adopt the following new rule in lieu thereof:

**645—131.12(152C) Hearings open to public.** A hearing of a licensing board concerning a licensee or an applicant shall be open to the public unless the licensee or applicant or the attorney requests in writing that the hearing be closed to the public.

ITEM 32. Adopt new rule 645—131.13(152C) as follows:

**645—131.13(152C) Hearings.** For any procedural matters not addressed by these rules, 641—Chapter 173 will be applicable. The board may authorize an administrative law judge to conduct the hearings, administer oaths, issue subpoenas, and prepare written findings of fact, conclusions of law, and a decision at the direction of the board. If a majority of the board does not hear the disciplinary proceedings, a recording or a transcript of the proceedings shall be made available to the members of the board who did not hear the proceeding.

ITEM 33. Adopt new rule 645—131.14(152C) as follows:

**645—131.14(152C) Appeal.** Any appeal to the district court from a disciplinary action of the board or denial of license shall be taken within 30 days from the issuance of the decision by the board. It is not necessary to request a rehearing before the board to appeal to the district court. A copy of the notice of appeal shall be sent to the board by certified

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

mail, return receipt requested, or by personal service. The address is Massage Therapy Office, Professional Licensure Division, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 34. Adopt **new** rule 645—131.15(152C) as follows:

**645—131.15(152C) Transcript.** The party who appeals a decision of the board to the district court shall pay the cost of the preparation of a transcript of the administrative hearing for the district court.

ITEM 35. Adopt **new** rule 645—131.16(152C) as follows:

**645—131.16(152C) Publications of decisions.** Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate professional association, the news media and employer.

ITEM 36. Adopt **new** rule 645—131.17(152C) as follows:

**645—131.17(152C) Discipline.** For all acts and offenses listed in this rule, the board may impose any of the disciplinary methods outlined in Iowa Code section 272C.3(2)“a” to “f” including the imposition of a civil penalty which shall not exceed \$1000. The board may discipline a licensee for any of the following reasons:

**131.17(1)** All grounds listed in Iowa Code section 147.55 which are:

- a. Fraud in procuring a license.
- b. Professional incompetence.

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the licensee's practice; or

(2) A willful or repeated departure from, or the failure to conform to, the minimal standard of accepted or prevailing practice.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

d. Habitual intoxication or addiction to the use of drugs.

e. Conviction of a felony related to the profession or occupation of the licensee or the conviction of a felony that would affect the licensee's ability to practice within a profession which includes, but is not limited to, a felonious act which is so contrary to honesty, justice or good morals and so reprehensible as to violate the public confidence and trust imposed upon the licensee.

f. Fraud in representations as to skill or ability.

g. Use of untruthful or improbable statements in advertisements.

h. Willful or repeated violations of the provisions of Iowa Code chapter 147.

(1) Violation of the rules promulgated by the board.

(2) Violation of the terms of a decision and order issued by the board.

(3) Violation of the terms of a settlement or agreement entered into and issued by the board.

(4) Personal disqualifications.

1. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

2. Involuntary commitment for the treatment of mental illness, drug addiction or alcoholism.

(5) Practicing the profession while the license is under suspension, lapsed or delinquent for any reason.

(6) Suspension or revocation of license by another state.

(7) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

(8) Prohibited acts consisting of the following:

1. Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

2. Permitting another person to use the licensee's license for any other purpose.

3. Practicing outside the scope of a license.

4. Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.

5. Verbally or physically abusing clients.

6. Making suggestive, lewd, lascivious, or improper remarks or advances to a client.

7. Engaging in sexual conduct with regard to a client, including but not limited to inappropriate physical conduct or any behavior that is seductive, demeaning, or exploitive.

8. Engaging in any sexual intimidation or sexual relationship involving a client.

9. Being adjudged mentally incompetent by a court of competent jurisdiction.

10. Permitting a licensed person under the licensee's control to practice outside the scope of the person's license.

**131.17(2)** Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service (directing or requiring an individual to purchase or secure a drug, device, treatment, procedure, or service from a person, place, facility, or business in which the licensee has a financial interest).

d. Failure to report a change of name or mailing address.

e. Failure to submit continuing education certificate with license renewal by date due for the renewal year.

f. Failure to complete the required continuing education within the compliance period.

g. Submission of a false report of continuing education, or failure to submit the annual report of continuing education.

h. Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

i. Failure to comply with a subpoena issued by the board.

j. Failure to report to the board any violation of the reasons for a disciplinary action as listed in this rule by another licensee.

k. Failure to pay any civil penalties assessed pursuant to rule 131.11(152C) or 131.12(152C).

l. Failure to submit curriculum changes.

ITEM 37. Adopt **new** rule 645—131.18(152C) as follows:

**645—131.18(152C) Civil penalty for employment of person not licensed.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**131.18(1)** A person who employs, to provide services to other persons, a person who is not licensed as a massage therapist shall not use the initials "L.M.T." or the words "licensed massage therapist," "massage therapist," "masseur," or "masseuse," or any other words or titles which imply or represent that the person employed practices massage therapy.

**131.18(2)** The board may impose a civil penalty not to exceed \$1000 on a person who violates this rule.

**131.18(3)** Each violation of this rule is a separate offense.

**131.18(4)** Each day a violation occurs after citation by the board is a separate offense.

**131.18(5)** The board may inspect any facility which advertises or offers services purporting to be delivered by massage therapists.

**131.18(6)** The citation will be sent to the alleged violator by certified mail, return receipt requested.

ITEM 38. Adopt new rule 645—131.19(152C) as follows:

**645—131.19(152C) Civil penalty for use of title.**

**131.19(1)** A person who is not licensed as a massage therapist shall not use the initials "L.M.T." or the words "licensed massage therapist," "massage therapist," "masseur," or "masseuse," or any other words or titles which imply or represent that the person practices massage therapy.

**131.19(2)** The board may impose a civil penalty not to exceed \$500 on a person who violates this rule.

**131.19(3)** Each violation of this rule is a separate offense.

**131.19(4)** Each day a violation of this rule occurs after citation by the board is a separate offense.

**131.19(5)** A person is not in violation of the statute or rules if that person practices massage therapy for compensation while in attendance at a school offering a curriculum meeting the requirements of 645—130.5(152C), and under the supervision of a member of the school's faculty.

**131.19(6)** The board may inspect any facility which advertises or offers services purporting to be delivered by massage therapists.

**131.19(7)** The citation will be sent to the alleged violator by certified mail, return receipt requested.

- Requiring proof of certification and expanded function to be on file with the Iowa Board of Dental Examiners (IBDE) and displayed in the assistant's place of employment;

- Allowing dental assistants with at least 3,000 hours on-the-job experience over a 24-month period to become automatically certified or "grandfathered";

- Giving the IBDE the authority to investigate, suspend, and revoke dental assistant credentials;

- Requiring the IBDE to keep a registry of all persons having completed educational requirements and develop a brochure which outlines educational requirements and scope of practice for all dental personnel;

- Adding two dental assistants to the IBDE; and

- Requiring dental offices to post what procedures each employee in the office can perform and requiring dental personnel to wear identification tags with their title.

In accordance with the provisions of Iowa Administrative Code 641—194.6(77GA, HF710), the Director of the Iowa Department of Public Health announces the appointment of a scope of practice review committee to consider the above application. Committee members are:

- Janyce Johnstone, Grinnell, representing the profession requesting the review;

- Robert Jakoubek, D.D.S., Charles City, representing the health profession most directly impacted by or opposed to the proposed change;

- Norma Hirsch, M.D., Des Moines, representing an impartial health professional who is not directly or indirectly impacted by or opposed to the proposed change;

- Mary Ellis, Des Moines, representing the general public;

- Delwyn Stromer, West Des Moines, representing the general public; and

- Jan Brown, Ankeny, ex officio member representing the dental hygiene profession.

Pursuant to Iowa Administrative Code 641—194.6(77GA, HF710), third paragraph, written comments on committee appointments must be received on or before October 5, 1998. Such written comments should be directed to Christopher Atchison, Director, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**NOTICE—SCOPE OF PRACTICE REVIEW COMMITTEE**

The Iowa Department of Public Health hereby gives notice of the receipt of an application for a scope of practice review committee submitted by the Dubuque District Dental Assistant Society. The application, received on August 24, 1998, proposes that mandatory certification of dental assistants be required in Iowa.

Specifically, the application proposes the following:

- Requiring dental assistants to be certified through graduation from an ADA-approved dental assisting program and successful completion of all three components of the Dental Assistant National Board (DANB);

- Identifying legal functions which can be performed by certified dental assistants based on the functions covered in the DANB task analysis;

- Requiring dental assistants seeking to perform expanded functions to obtain additional education and pass an additional written examination;

**NOTICE—SCOPE OF PRACTICE REVIEW COMMITTEE**

In accordance with 1998 Iowa Acts, Senate File 2280, the Director of the Iowa Department of Public Health hereby gives notice of the appointment of a scope of practice review committee to review nurse aide education and competency testing. 1998 Iowa Acts, Senate File 2280, directed the department to establish a scope of practice review committee for the purpose of reviewing existing oversight of the nurse aide workforce to determine the adequacy of nurse aide education and competency testing. Committee members are:

- Diana Findley, Des Moines, representing nurse aide providers;

- Dana Petrowsky, Des Moines, representing long-term care facilities;

NOTICE—SCOPE OF PRACTICE REVIEW COMMITTEE(cont'd)

- Charlotte Kelly, A.N.P., Pleasant Hill, representing an impartial health professional who is not directly or indirectly impacted by or opposed to the proposed change;
- Hanna Harris, Des Moines, representing the general public; and
- Geneva Partridge, Des Moines, representing the general public.

Pursuant to Iowa Administrative Code 641—194.6(77GA, HF710), third paragraph, written comments on committee appointments must be received on or before October 5, 1998. Such written comments should be directed to Christopher Atchison, Director, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ARC 8357A

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 135.11 and 139.2, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 1, “Notification and Surveillance of Reportable Diseases,” Iowa Administrative Code.

The purpose of this action is to add Staphylococcus aureus invasive disease and Methicillin resistant Staphylococcus aureus invasive disease to the reportable disease list.

Isolates of Methicillin resistant Staphylococcus aureus invasive disease should be sent to the University of Iowa Hygienic Laboratory. Total numbers of Staphylococcus aureus invasive disease isolates should be reported to the Department of Public Health on a quarterly basis. The reporting of both will allow tracking of antibiotic resistance in Staphylococcus aureus.

Any interested person may make written suggestions or comments on this proposed amendment prior to October 14, 1998. Such written materials should be directed to Judith H. Goddard, RN, BS, CIC, Nurse Epidemiologist, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

Also, there will be a public hearing on October 14, 1998, from 9:30 to 10 a.m. at the Department of Public Health, Third Floor, Side Two, Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 139.2.

The following amendment is proposed.

Amend subrule 1.2(1), paragraph “a,” as follows:

Amend subparagraph (1) by adding the following **new** reportable diseases in alphabetical order:

–Methicillin resistant Staphylococcus aureus invasive disease

\*\*Staphylococcus aureus invasive disease

Amend subparagraph (2) by adding an asterisk before “Yellow fever” as follows:

\*Yellow fever

Add the following footnote at the end of paragraph “a.”

\*\*Numbers of staphylococcal isolates should be reported to the Department of Public Health on a quarterly basis.

ARC 8358A

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 139.9(8), the Department of Public Health gives Notice of Intended Action to amend Chapter 7, “Immunization of Persons Attending Elementary or Secondary Schools or Licensed Child-Care Centers,” Iowa Administrative Code.

This proposed amendment will comply with the immunization schedule as recommended by the Immunization Practices Advisory Committee, the advisory body for the Centers for Disease Control and Prevention. The change will add a requirement for hepatitis B immunizations and remove the polio exemption for applicants 18 years of age and older.

Any interested person may make written comments on the proposed amendment on or before October 13, 1998. Such written comments should be directed to Pam Lutz, Bureau Chief, Bureau of Immunization, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, fax 1-800-831-6292.

A public hearing is scheduled for October 14, 1998, at 10 a.m. in the Fourth Floor Conference Room, Lucas State Office Building, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 139.9.

The following amendment is proposed.

Amend subrule 7.4(6) as follows:

7.4(6) 4 years of age and older: Applicants enrolled or attempting to enroll in a public or nonpublic elementary or secondary school shall have received *the following*:

- No change.
- At least three doses of trivalent polio vaccine. At least one dose of trivalent polio vaccine shall have been received after the applicant’s fourth birthday. ~~Applicants 18 years of age and older are exempt from the polio requirement;~~ and
- No change.
- At least three doses of hepatitis B vaccine if born on or after July 1, 1994, prior to enrollment in school.

## ARC §359A

PUBLIC HEALTH  
DEPARTMENT [641]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147A.4, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 132, "Emergency Medical Services," and Chapter 139, "Iowa Law Enforcement Emergency Care Provider," Iowa Administrative Code.

The proposed amendments will eliminate the Advanced Cardiac Life Support (ACLS) requirement for physician medical directors and replace it with a medical director workshop sponsored by the Department. The defibrillation tape audit review requirement by an EMS training program will be made an option at the discretion of the medical director, and the data elements required of EMS service programs for reporting are specifically identified.

The Iowa EMS Advisory Council endorsed these proposed changes at its July 8, 1998, meeting.

The Iowa Department of Public Health will hold a public hearing over the Iowa Communications Network on Thursday, October 15, 1998, from 2 to 3 p.m. Sites participating in the ICN broadcast include:

National Guard Armory, 11 East 23rd Street, Spencer, Iowa;

National Guard Armory, 1712 LaClark Road, Carroll, Iowa;

National Guard Armory, 1160 10th Street SW, Mason City, Iowa;

Iowa Department of Public Health, ICN Room, Third Floor, Lucas State Office Building, Des Moines, Iowa (originiation site);

National Guard Armory, 195 Radford Road, Dubuque, Iowa;

National Guard Armory, 2858 N. Court Road, Ottumwa, Iowa.

Any oral or written comments must be received on or before October 15, 1998. Comments should be addressed to Gary Ireland, EMS Bureau Chief, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are proposed.

ITEM 1. Amend rule 641—132.1(147A) as follows:

Adopt the following new definitions:

"Inclusion criteria" means criteria determined by the department and adopted by reference to determine which patients are to be included in the Iowa EMS service program registry or the trauma registry.

"Reportable patient data" means data elements and definitions determined by the department and adopted by reference to be reported to the Iowa EMS service program registry or the trauma registry or a trauma care facility on patients meeting the inclusion criteria.

Amend the following definitions:

"Medical director" means any physician licensed under Iowa Code chapter 148, 150, or 150A who shall be responsible for overall medical direction of the service program and who holds a current course completion card in ACLS ~~has completed a medical director workshop, sponsored by the department, within one year of assuming duties.~~

"Supervising physician" means any physician licensed under Iowa Code chapter 148, 150, or 150A who holds a current course completion card in ACLS. The supervising physician is responsible for medical direction of emergency medical care personnel when such personnel are providing emergency medical care.

"Training program medical director" means any physician licensed under Iowa Code chapter 148, 150, or 150A who is responsible for directing an emergency medical care training program and who holds a current course completion card in ACLS.

ITEM 2. Amend subrule 132.5(5), paragraph "a," as follows:

a. The training program medical director shall be a physician who holds a current course completion card in ACLS licensed under Iowa Code chapter 148, 150, or 150A. ~~It is recommended that the training program medical director complete a medical director workshop sponsored by the department.~~

ITEM 3. Amend subrule 132.8(2) as follows:

~~132.8(2) Each service program shall complete and maintain accurate records concerning the emergency care provided to each patient. An oral or written report should be given to the receiving hospital to ensure continuity of patient care. The data entered thereon shall be provided, upon request of the department, to the department for statistical and other study purposes, or for verification of compliance with Iowa Code chapter 147A and these rules.~~

~~In addition, FR, FR-D, EMT-D, EMT-B and EMT-I service programs shall:~~

~~1. Use the defibrillation protocol approved by the department.~~

~~2. Make simultaneous voice/ECG recordings on each call where cardiopulmonary resuscitation is performed. These recordings shall commence upon arrival at the patient's side and shall not be terminated until patient care is assumed by higher level personnel with appropriate training and equipment.~~

~~3. Submit a copy of the patient care report and the original voice/ECG recording to the approved training program designated by the medical director within 48 hours of the cardiac arrest.~~

~~132.8(2) Iowa EMS Service Program Registry Data Dictionary is adopted and incorporated by reference for inclusion criteria and reportable patient data. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.~~

~~a. The Iowa EMS Service Program Registry Data Dictionary is available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

~~b. An EMS service program shall:~~

~~(1) Submit reportable patient data identified in this subrule via electronic transfer or in writing. Data shall be submitted in a format approved by the department.~~

~~(2) Submit reportable patient data identified in this subrule to the department for each calendar quarter. Report-~~

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

able patient data shall be submitted no later than 90 days after the end of the quarter.

(3) Submit minimum reportable patient data to the hospital upon delivery of the patient or within 24 hours if an immediate emergency response occurs and delays submission. The data shall be submitted in a format approved by the department.

c. The department shall prepare compilations for release or dissemination on all reportable patient data entered into the EMS service program registry during the reporting period. The compilations shall include, but not be limited to, trends and patient care outcomes for local, regional, and statewide evaluations. The compilations shall be made available to all service programs submitting reportable patient data to the registry.

d. Access and release of reportable patient data and information.

(1) The data collected by and furnished to the department pursuant to this subrule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code section 22.7, subsection 2. However, information which individually identifies patients shall not be disclosed, and state and federal law regarding patient confidentiality shall apply.

(2) The department may approve requests for reportable patient data for special studies and analysis provided the request has been reviewed and approved by the deputy director of the department with respect to the scientific merit and confidentiality safeguards, and the department has given administrative approval for the proposal. The confidentiality of patients and the EMS service program shall be protected.

(3) The department may require those requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable patient data.

e. To the extent possible, activities under this subrule shall be coordinated with other health data collection methods.

f. Quality assurance.

(1) For the purpose of ensuring the completeness and quality of reportable patient data, the department or authorized representative may examine all or part of the patient's medical records as necessary to verify or clarify all reportable patient data submitted by a service program.

(2) Review of a patient's medical records by the department shall be scheduled in advance with the service program and completed in a timely manner.

g. All EMS service programs shall comply with these rules prior to January 1, 2001. The director, pursuant to Iowa Code section 147A.4, may grant a variance from the requirements of these rules for any service program, provided that the variance is related to undue hardships in complying with this chapter.

ITEM 4. Amend subrule 132.8(10) as follows:

**132.8(10)** Iowa essential EMS equipment for ambulance and nontransport services.

a. to w. No change.

x. Defibrillator (required, except for basic level services).

1. Automated, portable, battery-operated ~~with voice/ECG recorder.~~ (FR-D).

2. Manual or automated, portable, battery-operated ~~with voice/ECG recorder.~~ (EMT-D, EMT-B, EMT-I, EMT-P).

3. ~~Voice/ECG recorder is optional for EMT-P.~~

y. No change.

ITEM 5. Amend subrule 132.9(6) as follows:

**132.9(6)** On-line medical direction when provided through a hospital.

a. No change.

b. Hospitals signing an on-line medical direction agreement shall:

(1) Ensure that the supervising physicians or physician designees ~~who are trained and hold a current course completion card in ACLS~~ will be available to provide on-line medical direction via radio communications on a 24-hour-per-day basis.

(2) Identify the service programs for which on-line medical direction will be provided.

(3) Establish written protocols for use by supervising physicians and physician designees who provide on-line medical direction.

(4) Administer a quality assurance program to review orders given. The program shall include a mechanism for the hospital and service program medical directors to discuss and resolve any identified problems.

c. to i. No change.

ITEM 6. Amend subrule 132.16(3) as follows:

**132.16(3)** PAD service program—application, guidelines, and standards. A public or private nonemergency response business agency may establish an affiliation with an EMS service program if wishing to provide AED coverage in an EMS service program's service area or may apply for authorization as an independent PAD service program. An application is required and may be obtained by contacting the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075. PAD service programs shall:

a. to c. No change.

~~d. Make simultaneous voice/ECG recordings on each call where CPR is performed.~~

~~e. Submit a copy of the patient care report and the original voice/ECG recording to the department or department designee within 48 hours of the cardiac arrest.~~

f. to k. No change.

ITEM 7. Amend subrule 139.6(2) as follows:

**139.6(2)** Iowa law enforcement AED service program—application, guidelines, and standards. An Iowa law enforcement agency may establish an affiliation with an EMS service program if wishing to provide AED coverage in an EMS service program's service area or may apply for authorization as an independent law enforcement AED service program. An application is required and may be obtained by contacting the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075. Iowa law enforcement AED service programs shall:

a. to c. No change.

~~d. Make simultaneous voice/ECG recordings on each call where CPR is performed.~~

~~e. Submit a copy of the patient care report and the original voice/ECG recording to the department or department designee within 48 hours of the cardiac arrest.~~

f. to j. No change.

## ARC 8349A

## REAL ESTATE COMMISSION[193E]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 543B.9, the Iowa Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 1, "Business Conduct," Chapter 2, "Administrative Procedure," Chapter 4, "Discipline and Hearing Procedure," and Chapter 5, "Public Records and Fair Information Practices," Iowa Administrative Code.

The amendment to Chapter 1, subrule 1.24(7), clarifies what is considered to be advertising. The amendments to Chapters 2 and 4 outline procedures to be followed when the Commission receives a certificate of noncompliance from the College Student Aid Commission in accordance with 1998 Iowa Acts, Senate File 2170. The amendment to rule 5.18(17A,22,252J) is for clarification and the other amendment to Chapter 5 is to allow the Commission to share information regarding licensees with the College Student Aid Commission.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before October 13, 1998. Comments should be addressed to Roger L. Hansen, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to IREC@max.state.ia.us.

A public hearing will be held on October 13, 1998, at 9 a.m. in the Professional Licensing Conference Room on the second floor of the Department of Commerce Building, 1918 S.E. Hulsizer, Ankeny, Iowa.

These amendments are intended to implement Iowa Code chapters 17A, 22, 252J, 543B and 1998 Iowa Acts, Senate File 2170.

The following amendments are proposed.

ITEM 1. Adopt **new** subrule 1.24(7) as follows:

**1.24(7)** Advertising shall include all forms of identification, representation, promotion and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity.

ITEM 2. Adopt **new** rule 193E—2.4(77GA,SF2170) as follows:

**193E—2.4(77GA,SF2170)** Issuance or renewal of a license—denial. The commission shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, Senate File 2170. In addition to the procedures contained in those sections, this rule shall apply.

**2.4(1)** The notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

**2.4(2)** The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be 60 days following service of the notice upon the licensee or applicant.

**2.4(3)** The commission's executive secretary is authorized to prepare and serve the notice required by 1998 Iowa Acts, Senate File 2170, section 6, upon the licensee or applicant.

**2.4(4)** Licensees and applicants shall keep the commission informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the commission copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 1998 Iowa Acts, Senate File 2170, section 7, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

**2.4(5)** All commission fees required for application, license renewal or license reinstatement must be paid by licensee or applicant, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the commission has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

**2.4(6)** In the event a licensee or applicant timely files a district court action following service of a commission notice pursuant to 1998 Iowa Acts, Senate File 2170, sections 6 and 7, the commission shall continue with the intended action described in the notice until the commission's receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the commission shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**2.4(7)** The commission shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the commission deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the commission's receipt of a withdrawal of the certificate of noncompliance.

ITEM 3. Amend the implementation sentence at the end of **193E—Chapter 2** as follows:

These rules are intended to implement Iowa Code chapters 543B, 557A, and 17A and Iowa Code section 252J.8 and chapter 261 as amended by 1998 Iowa Acts, Senate File 2170.

ITEM 4. Adopt **new** rule 193E—4.44(77GA,SF2170) as follows:

**193E—4.44(77GA,SF2170)** Suspension or revocation of a license—student loan. The commission shall suspend or revoke a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, Senate File 2170. In addition to the provisions contained in those sections, this rule shall apply.

**4.44(1)** The notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the licensee may accept service personally or through authorized counsel.

## REAL ESTATE COMMISSION[193E](cont'd)

4.44(2) The effective date of revocation or suspension of a license, as specified in the notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be 60 days following service of the notice upon the licensee.

4.44(3) The commission's executive secretary is authorized to prepare and serve the notice required by 1998 Iowa Acts, Senate File 2170, section 6, and is directed to notify the licensee that the license will be suspended, unless the license is already suspended on other grounds. In the event a license is on suspension, the executive secretary shall notify the licensee of the commission's intention to revoke the license.

4.44(4) Licensees shall keep the commission informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the commission copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 1998 Iowa Acts, Senate File 2170, section 7, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

4.44(5) All commission fees required for license renewal or license reinstatement must be paid by the licensee and all continuing education requirements must be met before a license will be renewed or reinstated after the commission has suspended or revoked a license pursuant to Iowa Code chapter 261.

4.44(6) In the event a licensee timely files a district court action following service of a commission notice pursuant to 1998 Iowa Acts, Senate File 2170, sections 6 and 7, the commission shall continue with the intended action described in the notice until the commission's receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the commission shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

4.44(7) The commission shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the commission deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license, and shall similarly notify the licensee or applicant when the license is reinstated following the commission's receipt of a withdrawal of the certificate of noncompliance.

ITEM 5. Amend rule 193E—5.18(17A,22,252J) as follows:

193E—5.18(17A,22,252J) *Sharing of information with the child support recovery unit of the department of human services.* Notwithstanding any statutory confidentiality provision, the commission may share information with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying registrants licensees or applicants subject to enforcement under Iowa Code Supplement chapter 252J or 598.

ITEM 6. Adopt new rule 193E—5.19(77GA,SF2170) as follows:

193E—5.19(77GA,SF2170) *Sharing of information with the college student aid commission.* Notwithstanding any statutory confidentiality provision, the commission may share information with the college student aid commission for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 261 as amended by 1998 Iowa Acts, Senate File 2170.

ITEM 7. Amend the implementation sentence at the end of 193E—Chapter 5 as follows:

These rules are intended to implement Iowa Code chapters 17A, and 22, and Iowa Code Supplement chapter 252J and chapter 261 as amended by 1998 Iowa Acts, Senate File 2170.

ARC 8341A

## REVENUE AND FINANCE DEPARTMENT[701]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.17, 422.53, 422.68, and 423.23, the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 13, "Permits," Chapter 17, "Exempt Sales," Chapter 19, "Sales and Use Tax on Construction Activities," Chapter 20, "Foods for Human Consumption, Prescription Drugs, Insulin, Hypodermic Syringes, Diabetic Testing Materials, Prosthetic, Orthotic or Orthopedic Devices," and Chapter 26, "Sales and Use Tax on Services," Iowa Administrative Code.

Item 1 amends rule 701—13.12(422) to update display of sales tax permit requirements pursuant to Iowa Code section 422.53(3). Item 2 amends 701—Chapter 17 by adding new rule 17.31(422,423) to implement 1998 Iowa Acts, Senate File 2365, which provides a sales tax exemption for the sale of electricity to certain water companies. Item 3 amends 701—Chapter 17 by adding new rule 701—17.32(422). Item 5 amends subrule 20.5(2) by adding a new paragraph "d" to implement 1998 Iowa Acts, Senate File 2364. These amendments provide that a nonprofit organization exempt under Section 501(c) of the Internal Revenue Code that principally promotes food or beverage for human consumption which is produced, raised, or grown in Iowa is exempt from sales tax on the gross receipts from the sales of such food and beverages for human consumption. This exemption is retroactive to July 1, 1988. In addition, these amendments also implement a refund provision for qualifying organizations that actually paid sales tax on the gross receipts and did not collect and remit tax paid on the sales from customers for sales tax periods from July 1, 1988, through June 30, 1998. To qualify, the refund claim must be filed with the Department of Revenue and Finance on or before October 1, 1998. Item 4 amends rule 701—19.12(422,423) and its implementation clause to implement 1998 Iowa Acts, Senate File 2365, which provides an exemption and refund provision for Iowa sales tax paid on construction contracts with rural water districts organized under Iowa Code chapter 504A. Item 7 amends rule 701—26.47(422) and its implementation clause to implement 1998 Iowa Acts, House File 2550, which provides that the services provided by massage therapists licensed under Iowa Code chapter 152C are not subject to sales or use tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.



## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than October 13, 1998, to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 23, 1998. Such written comments should be directed to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 16, 1998.

These amendments are intended to implement Iowa Code section 422.53(3) and 1998 Iowa Acts, Senate File 2364, Senate File 2365, and House File 2550.

The following amendments are proposed.

ITEM 1. Amend rule 701—13.12(422) to read as follows:

**701—13.12(422) Permit must be posted posting.** The permit shall be conspicuously posted at all times in the taxpayer's place of business in such manner and position that it may be readily seen and read by the public. ~~need not be posted for public view at the taxpayer's place of business. However, the taxpayer must, at all times, keep the permit available for inspection upon request by any department representative.~~

This rule is intended to implement Iowa Code section 422.53(3).

ITEM 2. Amend 701—Chapter 17 by adopting the following new rule:

**701—17.31(422,423) Sale of electricity to water companies.** On or after July 1, 1998, the gross receipts from the sale of electricity to water companies assessed for property tax pursuant to Iowa Code sections 428.24, 428.26, and 428.28, which is used solely for the purpose of pumping water from a river or well is exempt from sales tax. For the purposes of this rule, "river" means a natural body of water or waterway that is commonly known as a river. "Well," for the purposes of this rule, means an issue of water from the earth; a mineral spring; a pit or hole sunk into the earth to reach a water supply; a shaft or hole sunk to obtain oil, water, gas, etc.; a shaft or excavation in the earth, in mining, from which run branches...Pacific Gas and Electric Company v. Hufford, 319 P.2d 1033, 1040 (Calif. 1957), citing Webster's New International Dictionary, 2nd ed., unabridged. Also see rule 701—17.3(422,423) for additional information regarding the processing exemption.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, Senate File 2365.

ITEM 3. Amend 701—Chapter 17 by adopting the following new rule:

**701—17.32(422) Food and beverages sold by certain organizations are exempt.** Retroactively to July 1, 1988, the gross receipts from sales of food and beverages for human consumption by certain organizations that promote Iowa products and any other food or beverage sold in conjunction with the promoted Iowa product by the organization.

**17.32(1)** To claim the exemption, an organization must meet all of the following qualifications:

- a. The organization must be nonprofit,
- b. The organization must principally promote a food or beverage product for human consumption that is produced, grown, or raised in Iowa, and
- c. The organization must be exempt from federal income tax under Section 501(c) of the Internal Revenue Code.

**17.32(2)** Claim for refunds of tax, interest, or penalty paid for the period of July 1, 1988, to June 30, 1998, must be limited to \$25,000 in the aggregate and will not be allowed unless filed prior to October 1, 1998. If the amount of the claimed refunds for this period totals more than \$25,000, the department must prorate the \$25,000 among all claims. In addition, refunds of tax, interest, or penalty paid will only be refunded to the organization that actually paid the tax and did not collect the tax from the customer for the period in which the refund is requested or to an individual that paid the tax during the authorized period and had a receipt of the transaction.

**EXAMPLE 1.** A nonprofit association that is also exempt from federal income tax under Section 501(c) of the Internal Revenue Code promotes the sale of turkey. In October of 1997, in Winterset, Iowa, the organization sold turkey sandwiches, chips, and beverages to patrons of a festival encouraging the touring and preservation of its historic covered bridges. The association did not separately charge sales tax to the customers for the food purchased. Instead, the association remitted the sales tax on the gross receipts from the event from its own funds. The gross receipts from the sales of the turkey sandwiches would be exempt from sales tax. The association would be entitled to submit a request for refund of the tax paid on the gross receipts from the selling event by October 1, 1998.

**EXAMPLE 2.** A local nonprofit organization that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code promotes the sale of Iowa corn. On May 8, 1998, during a festival promoting Pella, Iowa's beautiful tulips and heritage, the association sold Iowa sweet corn on an "all you can eat" basis for one price to patrons of the festival. The organization charged its customers tax in addition to the price charged. The organization would not qualify to claim a refund for the sales tax paid on the gross receipts from the festival due to the organization's not paying the sales tax from its own funds for the May 8, 1998, event. Instead, the organization collected the tax from its customers and remitted the tax to the department. However, a customer of the organization would be entitled to a refund if the customer can produce a receipt of the transaction indicating the tax was paid by the customer for the period at issue.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, Senate File 2364.

ITEM 4. Amend rule 701—19.12(422,423) as follows:

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

**701—19.12(422,423) Contracts with governmental units, private nonprofit educational institutions, nonprofit private museums, and businesses in economic development areas, and rural water districts organized under Iowa Code chapter 504A.** Contractors, subcontractors, and builders who enter into written construction contracts with governmental units, private nonprofit educational institutions, nonprofit private museums, or businesses or supporting businesses in economic development areas, or rural water districts organized under Iowa Code chapter 504A, are still required to remit sales tax on building materials, supplies, and equipment to their suppliers or to pay a corresponding use tax. If the construction contract is a contract which includes machinery or equipment or a mixed contract, the machinery and equipment must be purchased tax-free because these items will be resold. There would be no sales tax charged on the sale of machinery and equipment to a governmental unit or a private nonprofit educational institution or a nonprofit private museum since these sales are exempt under Iowa Code sections 422.45(5) and 422.45(8). See rules 19.8(422,423) and 19.9(422,423) relating to machinery and equipment sales. See also 261—subrule 58.4(7) for an explanation of the exemption for sales of machinery and equipment to businesses or supporting businesses in an economic development area.

In addition, under the provisions of Iowa Code section 422.45(7) or 15.331A(1), the contractor is required to provide the governmental unit, private nonprofit educational institution, or nonprofit private museum, or business or supporting business in an economic development area, or a rural water district organized under Iowa Code chapter 504A with a statement before final settlement of the contract, showing the amount of sales of goods, wares, or merchandise or services rendered, furnished, or performed and used in the performance of the contract, and the amount of sales and use taxes paid on said items. The department provides Form 35-002 for this purpose. The governmental unit, private nonprofit educational institution, nonprofit private museum, or business or supporting business, or rural water district organized under Iowa Code chapter 504A has six months after final settlement to file a claim for refund on Form 35-003 for sales and use taxes paid by the contractor. The failure of a contractor to remit taxes on materials, supplies, and equipment used in the performance of a construction contract does not relieve the contractor of liability even though the refund was not or cannot be claimed. See *Dealers Warehouse Co. Inc. v. Department of Revenue, Jasper County District Court, 90-3910936, December 6, 1978*. Contracts financed by industrial bonds provided under the provisions of Iowa Code chapter 419 are eligible for the special refund provisions provided in Iowa Code section 422.45(7) when the bond issue was approved by a municipality prior to November 1, 1982, and upon completion of the project the property becomes public property or is devoted to educational uses. The refund applies only to taxes paid on goods, wares, or merchandise purchased after November 1, 1982.

This rule is intended to implement Iowa Code sections 357A.15 and 422.45 as amended by 1998 Iowa Acts, Senate File 2365.

ITEM 5. Amend subrule 20.5(2) by adding a new paragraph "d" as follows:

d. Sales of food and beverages for human consumption by certain nonprofit organizations. Sales of food and beverages made by certain organizations are exempt. Retroactively to July 1, 1988, the gross receipts from sales of food and

beverages for human consumption by organizations are exempt from sales tax if the organization is nonprofit, principally promotes a food or beverage product for human consumption that is produced, grown, or raised in Iowa, and is exempt from federal income tax under Section 501(c) of the Internal Revenue Code. Refunds are allowed for tax, penalty, and interest paid by such organizations on sales made between July 1, 1988, and June 30, 1998. For details, examples, and requirements on claiming a refund, see 701—17.32(422).

ITEM 6. Amend the implementation sentence at the end of rule 701—20.5(422,423) as follows:

This rule is intended to implement Iowa Code Supplement section 422.45 as amended by 1998 Iowa Acts, Senate File 2364.

ITEM 7. Amend rule 701—26.47(422) as follows:

**701—26.47(422) Turkish baths, massage, and reducing salons.** Persons engaged in the business of operating Turkish baths, reducing salons, or in the business of massaging, excluding services provided by massage therapists licensed under Iowa Code chapter 152C, are rendering, furnishing, or performing a service, the gross receipts from which are subject to tax. "Turkish baths" shall mean any type of facility wherein the individual is warmed by steam or dry heat. "Reducing salons" shall mean any type of establishment which offers facilities or a program of activities for the purpose of weight reduction. "Massaging" shall include the kneading, rubbing, or manipulating of the body to condition the body, but not include any body manipulation undertaken and incidental to the practice of one or more of the healing arts. Persons engaged in the business of operating health studios which, as a part of their operation, offer any or all of the services of Turkish baths, massages, or reducing facilities or programs shall be subject to tax upon the gross receipts from the above-named service.

This rule is intended to implement Iowa Code section 422.43(11) as amended by 1998 Iowa Acts, House File 2550.

**ARC 8342A**

## REVENUE AND FINANCE DEPARTMENT[701]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

These amendments require condominiums that are rented like apartments for commercial purposes to be classified as commercial real estate and condominiums that are sold for individual ownership and occupancy to be classified as residential real estate. The present rules permit all condominiums that are being used for residential purposes to be classi-

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

fied as residential real estate regardless of the fact that they may be rented and thus used as a commercial venture.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than October 13, 1998, to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 23, 1998. Such written comments should be directed to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 16, 1998.

These amendments are intended to implement Iowa Code chapter 441.

The following amendments are proposed.

Amend subrules 71.1(4) and 71.1(5) as follows:

**71.1(4) Residential real estate.** Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation, including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, *condominiums*, and structures containing three or more separate living quarters shall not be considered residential real estate. However, regardless of the number of separate living quarters, *condominiums not used as commercial ventures*, multiple housing cooperatives organized under Iowa Code chapter 499A, and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate. *For example, property should be classified as residential real estate if a majority of the condominiums are or will be used for residential purposes and have been sold, are*

*available for sale, or are being rented, but the primary intent of the owner is to sell the units.*

**71.1(5) Commercial real estate.** Commercial real estate shall include all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Commercial realty shall also include hotels, motels, rest homes, *condominiums*, structures consisting of three or more separate living quarters and any other buildings for human habitation that are used as a commercial venture. Commercial real estate shall also include data processing equipment as defined in Iowa Code section 427A.1(1)"j," except data processing equipment used in the manufacturing process. However, regardless of the number of separate living quarters or any commercial use of the property, single- and two-family dwellings, ~~condominiums~~, multiple housing cooperatives organized under Iowa Code chapter 499A, and land and buildings used primarily for human habitation and owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be classified as residential real estate, *as shall condominiums not used as commercial ventures. For example, property should be classified as commercial real estate if a majority of the condominiums are being used as a business or used for residential purposes and not sold, not available for sale, or rented and the primary intent of the owner is to continue renting rather than sell the units.*

**ARC 8331A**

## TRANSPORTATION DEPARTMENT[761]

### Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 600, "General Information," Chapter 601, "Application for License," Chapter 602, "Classes of Motor Vehicle Licenses," Chapter 604, "License Examination," Chapter 605, "License Issuance," Chapter 615, "Sanctions," Chapter 620, "OWI and Implied Consent," Chapter 625, "Motor Vehicle Licenses for Undercover Law Enforcement Officers," Chapter 630, "Nonoperator's Identification," and Chapter 641, "Financial Liability Coverage Cards," Iowa Administrative Code.

Following is a synopsis of the amendments, arranged by chapter amended:

#### All Chapters

1998 Iowa Acts, Senate File 2113, defines the term "driver's license," deletes the definition of "motor vehicle license," and amends the Iowa Code accordingly. Several items make corresponding amendments to the rules.

#### Chapter 600

Item 3 amends the subrule on loss of consciousness and voluntary control. Situations are being added where the Department may license without a six-month episode-free period. This new language was added in consultation with the medical advisory board.

## TRANSPORTATION DEPARTMENT[761](cont'd)

1998 Iowa Acts, Senate File 2170, section 6, provides that a licensing authority shall suspend, revoke or deny a license upon receipt of a certificate of noncompliance from the College Student Aid Commission. Item 4 provides for license denial. License suspension is addressed in a new subrule in Chapter 615.

Item 5 rewrites the current rule on the licensing of private and commercial driver education schools. The current rule does not reflect the fact that the Department of Transportation, not the Department of Education, approves the course and instructors for motorcycle rider education and motorized bicycle education.

1998 Iowa Acts, House File 2528, is the graduated driver's licensing bill. Section 2 of this bill provides that the street or highway driving component of a driver education course may be provided by a person qualified as a classroom driver education instructor or a person certified by the Department of Transportation. The section requires the Department to adopt rules providing for the certification. Item 6 implements this rule-making requirement.

Item 6 also addresses the payment of fees under Chapter 600. The new rule allows for the acceptance of personal checks; the current rule does not.

Chapter 602

1998 Iowa Acts, House File 2528, creates a new Iowa Code section and makes coordinating amendments establishing a graduated driver's licensing system for minors. The system provides for an instruction permit at age 14, an intermediate license at age 16, and a full license at age 17 and sets out eligibility requirements that a young driver must meet to progress to the next licensing step. Instruction permits for persons aged 18 and over are also available under existing Iowa Code provisions. House File 2528 also:

- Provides that an intermediate licensee may operate a vehicle to and from school-related extracurricular activities and work without an accompanying driver between the hours of 12:30 a.m. and 5 a.m. if the licensee possesses a waiver on a form to be provided by the Department.
- Provides that a motorcycle instruction permit is not renewable. This applies to all persons regardless of age.
- Amends school license provisions. The legislation allows a school principal to certify the need for a school license if authorized by the school superintendent. The legislation also substitutes the phrase "within the school district" for the phrase "at the schools."

Several rules in Chapter 602 are being amended or rewritten to delete repetitious language and bring the rules into compliance with House File 2528.

Item 11 consolidates information on the forms mentioned in Chapter 602 into one rule, rule 761—602.2(321). The rule establishes the new waiver form required by House File 2528. The rule also contains revised provisions addressing situations in which a student completed a driver education, motorcycle rider education or motorized bicycle education course in another state. The current provisions are vague.

Item 12 defines "Immediate family" for instruction permit holders aged 18 and older, instruction permit holders under age 18, and intermediate licensees.

Chapter 604

1998 Iowa Acts, House File 2528, provides that a student shall not be excused from a driving test if a parent, guardian or instructor requests that the test be administered. Item 23 includes this requirement. The new language will apply to any applicant for a Class M license or Class C (including motorized bicycle) license that permits unaccompanied driving if the applicant is under age 21.

Chapter 605

Restriction code "Y" is being established to denote an intermediate license. A person holding an intermediate license will not be eligible for renewal by mail.

Chapter 615

1998 Iowa Acts, House File 2528, which is the graduated driver's licensing bill, sets out the eligibility requirements that a young driver must meet to progress to the next licensing step. Among the conditions are requirements that the permit holder or licensee be accident- and conviction-free for six months (instruction permit) or 12 months (intermediate license) before progressing to the next licensing step.

House File 2528 also provides that a permit holder or licensee who has been convicted of a moving violation or who has been involved in an accident shall be subject to remedial driver improvement action or suspension. Following completion of remedial driver improvement action, the permit holder or licensee must be accident- and conviction-free for six months (instruction permit) or 12 months (intermediate license) before progressing to the next licensing step.

Item 30 adds definitions for "Accident free," "Conviction free," and "Contributive accident." Item 45 establishes the Department's remedial driver improvement action.

Item 31 amends the definition of moving violation to exempt all violations of Iowa Code section 321.20B.

Item 33 amends the nonresident violator compact rule so that its language parallels that of the rule on suspension for nonpayment of fine, penalty, surcharge or court costs.

1998 Iowa Acts, House File 2394, section 1, creates a new vehicular homicide suspension. This legislation provides that upon receiving notice from the Clerk of Court that an indictment or information has been filed charging an operator with homicide by vehicle under Iowa Code section 707.6A, subsection 1 or 2, the Department shall suspend the person's license effective ten days from the date of issuance of the suspension notice. Item 34 implements this legislation.

1998 Iowa Acts, House File 2528, section 10, provides for a 12-month probation period after the termination of certain suspensions, revocations or bars. This legislation provides that upon conviction of a moving violation which occurred during the probation period, the Department may suspend the person's license for an additional period equal in duration to the original sanction, or for one year, whichever is shorter. Item 35 implements this legislation.

Several rules in Chapter 615 are being moved or combined to make room for the new types of driver sanctions and to allow for future expansion, if needed. Two rules were repetitious of other rules and are rescinded.

1998 Iowa Acts, Senate File 2170, section 6, provides that a licensing authority shall suspend, revoke or deny a license upon receipt of a certificate of noncompliance from the College Student Aid Commission. Item 38 provides for license suspension. A new subrule in Chapter 600 provides for license denial.

Items 42 and 43 amend the rule on hearings. Item 42 excludes vehicular homicide suspensions. Item 43 denies issuance of a stay to persons suspended under 1998 Iowa Acts, House File 2528, section 5.

Item 45 amends the subrule on ineligibility for a temporary restricted license to add suspensions upon receipt of a certificate of noncompliance from the College Student Aid Commission, suspensions for charges of vehicular homicide, and suspensions under 1998 Iowa Acts, House File 2528, section 5.

Chapter 620

## TRANSPORTATION DEPARTMENT[761](cont'd)

1998 Iowa Acts, Senate File 2257, section 25, provides that the Department shall not issue a temporary restricted license for an OWI offense unless the civil penalty has been paid. Also, the legislation provides that a license shall not be reinstated unless proof of deinstallation of an ignition interlock device has been submitted to the Department. Items 46 and 48 make coordinating amendments.

Item 47 provides that only the original and one copy of an appeal from an administrative law judge's decision need be submitted. The current rule provides for an original and two copies.

1998 Iowa Acts, Senate File 2391, section 5, allows Departmental issuance of a temporary restricted license if a person has completed the revocation period under Iowa Code chapter 321J but has not met all the requirements for license reinstatement. Item 49 establishes the conditions for issuance under this legislation.

Chapter 641

1998 Iowa Acts, House File 2454, section 1, eliminates the requirement that the type of coverage provided appear on a financial liability coverage card. Items 54 to 56 make coordinating amendments.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: rules@iadot.e-mail.com.

5. Be received by the Director's Staff Division no later than October 13, 1998.

A meeting to hear requested oral presentations is scheduled for Thursday, October 15, 1998, at 10 a.m. in the conference room of the Motor Vehicle Division, which is located on the lower level of Park Fair Mall, 100 Euclid Avenue, Des Moines.

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

These amendments are intended to implement Iowa Code chapters 321 and 321J and 1998 Iowa Acts, House File 2528, House File 2394, section 1, House File 2454, section 1, Senate File 2113, Senate File 2170, section 6, Senate File 2257, section 25, and Senate File 2391, section 5.

## Proposed rule-making actions:

ITEM 1. Amend rule 761—600.1(321) by rescinding the definition of "License" and adopting in lieu thereof the following new definition:

"License" means "driver's license" as defined in Iowa Code section 321.1 unless the context otherwise requires.

ITEM 2. Amend rule 761—600.2(321) and subrule 600.3(1) by striking the words "motor vehicle licensing" and inserting in lieu thereof the words "driver's licensing".

ITEM 3. Amend subrule 600.4(4) as follows:

600.4(4) The department shall not knowingly license any person who suffers from syncope of any cause, any type of periodic or episodic loss of consciousness, or any paroxysmal disturbances of consciousness, including but not limited

to epilepsy, until that person has remained free of episodes of loss of consciousness or loss of voluntary control for six months, and then only upon receipt of a medical report favorable toward licensing.

a. If a medical report indicates a pattern of only syncope or nocturnal loss of consciousness, the department may license without a six-month episode-free period after favorable recommendation by the medical advisory board.

b. If a medical report indicates a pattern of such episodes only when the person is asleep or is sequestered for sleep, the department may license without a six-month episode-free period.

c. If episodes occur when medications are withdrawn by a physician, but the person is seizure-free when placed back on medications, the department may license without a six-month episode-free period with a favorable recommendation from a neurologist.

ITEM 4. Amend rule 761—600.4(321) by adopting new subrule 600.4(9) and amending the implementation clause at the end of the rule as follows:

600.4(9) The department shall not knowingly issue a license to a person who is the named individual on a certificate of noncompliance that has been received from the college student aid commission, until the department receives a withdrawal of the certificate of noncompliance or unless an application has been filed pursuant to 1998 Iowa Acts, Senate File 2170, section 7.

This rule is intended to implement Iowa Code chapters 321A, 321C, and 321J and sections 252J.8, 252J.9, 321.13, 321.177, 321.210, and 321.212, 321.218, and 321.560 and 1998 Iowa Acts, Senate File 2170, sections 6 and 7.

ITEM 5. Rescind rule 761—600.12(321) and insert in lieu thereof the following new rule:

761—600.12(321) Private and commercial driver education schools. The department licenses private and commercial driver education schools as follows:

600.12(1) Instructor and course approval.

a. To be licensed to teach driver education, the school's course and classroom and laboratory instructors must be approved by the department of education. Street or highway driving instruction must be provided either by the instructors approved by the department of education or persons certified by the department of transportation. Written evidence of these approvals and certifications must be submitted to the department of transportation upon application for a license, upon renewal of a license, and upon reinstatement of a license following cancellation.

b. To be licensed to teach motorized bicycle education, the school's course and instructors must be approved by the department of transportation.

c. To be licensed to teach motorcycle rider education, the school's course and instructors must be approved by the department of transportation in accordance with 761—Chapter 635.

600.12(2) Issuance and renewal.

a. A license to teach driver education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date. The license shall be renewed within 30 days of the expiration date.

b. A license to teach motorized bicycle education or motorcycle rider education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 and shall be renewed annually.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**600.12(3)** Application and fees. Application for license issuance or renewal shall be made to the department of transportation on forms provided by the department. The license and renewal fees are \$25.

**600.12(4)** Cancellation. A license shall be canceled if the course or instructors are no longer approved or the persons providing only behind-the-wheel instruction are no longer certified. Also, a license to teach motorcycle rider education shall be canceled if the school does not comply with 761—Chapter 635.

This rule is intended to implement Iowa Code sections 321.178 and 321.189 and 1998 Iowa Acts, House File 2528, section 5.

ITEM 6. Adopt new rules 761—600.13(321) and 761—600.14(321) as follows:

**761—600.13(321) Behind-the-wheel instructor's certification.** The following applies to departmental certification of persons qualified to provide the street or highway driving component of an approved driver education course.

**600.13(1)** Qualifications. To qualify for certification, an individual must:

- a. Be 25 years of age.
- b. Hold a valid Iowa driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.
- c. Have a clear driving record for the previous four years. A clear driving record means the individual has:

(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

(3) Not committed an offense which would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

(4) No record of an accident for which the individual was convicted of a moving traffic violation.

d. Have successfully completed the instructor preparation requirements of this rule, as evidenced by written attestations on forms provided by the department from both the classroom instructor and behind-the-wheel observer.

**600.13(2)** Certification.

a. To obtain certification, an individual meeting the qualifications shall apply to the department on forms provided by the department for a behind-the-wheel instructor's certification. The certification shall be issued for a calendar year or remainder of a calendar year. The certification expires on December 31 but remains valid for an additional 30 days after the expiration date. The certification shall be renewed within 30 days of the expiration date.

b. To renew a behind-the-wheel instructor's certification, a person meeting the qualifications must:

(1) Provide behind-the-wheel instruction for a minimum of 12 clock hours during the previous calendar year.

(2) Participate in a least one state-sponsored or state-approved behind-the-wheel instructor refresher course.

**600.13(3)** Instructor preparation requirements. Instructor preparation shall consist of 24 clock hours of classroom instruction and 12 clock hours of observed behind-the-wheel instruction. The curriculum shall be developed by the department in consultation with the Iowa driver education teacher preparation programs approved by the Iowa board of educational examiners and in consultation with the American Driver and Traffic Safety Education Association.

a. At a minimum, classroom instruction shall focus on topics such as the psychology of the young driver, behind-the-wheel teaching techniques, and route selection. Classroom instruction shall be delivered by staff from a driver education teacher preparation program approved by the Iowa board of educational examiners. A classroom session shall last no longer than four hours. Video conferencing may be used for course delivery.

b. Observation of behind-the-wheel instruction shall be provided by a person licensed to teach driver education who is specially trained by a driver education teacher preparation program approved by the Iowa board of educational examiners to observe, coach, and evaluate behind-the-wheel instructor candidates. A behind-the-wheel session shall last no longer than four hours. A dual-control motor vehicle must be used.

**600.13(4)** Cancellation. The department shall cancel the behind-the-wheel instructor's certification of an individual whose driver's license is suspended, revoked, denied, canceled, or barred; who is disqualified from operating a commercial motor vehicle; or who is convicted of a moving traffic violation as a result of an accident.

**600.13(5)** Approved driver education course. To provide the street or highway driving component of an approved driver education course, an individual holding a behind-the-wheel instructor's certification must be employed by a public or licensed commercial or private provider of the approved driver education course and work under the supervision of a person licensed to teach driver education.

This rule is intended to implement Iowa Code section 321.178 and 1998 Iowa Acts, House File 2528, sections 2 and 5.

**761—600.14(321) Payment of fees.** License and certification fees under this chapter shall be paid by cash, money order or check. A money order or check shall be for the exact amount and shall be made payable to Treasurer, State of Iowa.

This rule is intended to implement Iowa Code sections 321.178 and 321.189 and 1998 Iowa Acts, House File 2528, sections 2 and 5.

ITEM 7. Amend subrule **601.1(1)**, rule **761—601.2(321)**, and rule **761—601.5(321)**, introductory paragraph, by striking the words "motor vehicle license" and inserting in lieu thereof the words "driver's license" and by striking the words "motor vehicle licenses" and inserting in lieu thereof the words "driver's licenses".

ITEM 8. Amend the title of **761—Chapter 602**; rule **761—602.1(321)**, catchwords; subrule **602.1(1)**, introductory paragraph; subrule **602.1(2)**, introductory paragraph; subrule **602.3(1)**; and paragraph **602.13(1)"d"** by striking the words "motor vehicle license" and inserting in lieu thereof the words "driver's license" and by striking the words "motor vehicle licenses" and inserting in lieu thereof the words "driver's licenses".

ITEM 9. Amend subrule **602.1(2)**, restriction numbers 1 and 2, as follows:

1—Motorcycle instruction permit—*includes motorcycle instruction permits issued under Iowa Code subsection 321.180(1) and 1998 Iowa Acts, House File 2528, section 5, subsection 1*

2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)—*includes instruction permits, other than motorcycle instruction permits, issued under Iowa Code subsection 321.180(1) and section*

## TRANSPORTATION DEPARTMENT[761](cont'd)

321.180A and 1998 Iowa Acts, House File 2528, section 5, subsection 1

ITEM 10. Amend rule 761—602.1(321), implementation clause, as follows:

This rule is intended to implement Iowa Code sections 321.178, 321.180, 321.180A, 321.189, and 321.194 and ~~321.197~~ 1998 Iowa Acts, House File 2528, section 5.

ITEM 11. Amend rule 761—602.2(17A) as follows:

**761—602.2(17A)(321) Information and forms.** Applications, forms and information about ~~motor vehicle licenses~~ driver's licensing are available at any driver's license examination station. Assistance is also available at the address in rule 761—600.2(17A).

**602.2(1) Certificate of completion.** Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education.

a. If a student completed a course in another state, a public or licensed commercial or private provider of the Iowa-approved course may issue the form for the student if the provider determines that the out-of-state course is comparable to the Iowa-approved course.

b. If the out-of-state course is comparable but lacks certain components of the Iowa-approved course, the provider may issue the form after the student completes the missing components.

**602.2(2) Affidavit for school license.** Form 430021 shall be used for submitting the required statements, affidavits and parental consent for a minor's school license. See rule 761—602.26(321).

**602.2(3) Waiver of accompanying driver for intermediate licensee.** Form 431170 is the waiver described in 1998 Iowa Acts, House File 2528, section 5. This form allows an intermediate licensee to drive unaccompanied between the hours of 12:30 a.m. and 5 a.m. and must be in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

a. If the waiver is for employment, the form must be signed by the licensee's employer.

b. If the waiver is for school-related extracurricular activities, the form must be signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent.

c. The form must be signed by the licensee's parent or guardian. However, the parent's or guardian's signature is not required if the licensee is married and the original or a certified copy of the marriage license is in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

This rule is intended to implement Iowa Code section ~~17A.3~~ sections 321.8, 321.178, 321.184, 321.189, and 321.194 and 1998 Iowa Acts, House File 2528, section 5.

ITEM 12. Adopt new rule 761—602.4(321) as follows:

**761—602.4(321) Definitions of immediate family.**

**602.4(1)** A "member of the permittee's immediate family" as used in Iowa Code subsection 321.180(1) means the permittee's parent or guardian or a brother, sister or other relative of the permittee who resides at the permittee's residence.

**602.4(2)** A "member of the permittee's immediate family" as used in 1998 Iowa Acts, House File 2528, section 5, subsections 1 and 2, means a brother, sister or other relative of the permittee who resides at the permittee's residence.

This rule is intended to implement Iowa Code section 321.180 and 1998 Iowa Acts, House File 2528, section 5.

ITEM 13. Amend subrule 602.11(2) and rule 761—602.11(321), implementation clause, as follows:

**602.11(2) Requirements.**

a. An applicant shall be at least 16 years of age.

b. *Except as otherwise provided in Iowa Code subsection 321.178(3), an An applicant under 18 years of age shall must meet the requirements of 1998 Iowa Acts, House File 2528, section 5, and submit proof of successful completion of an Iowa-approved course in driver education on Form 430020. If the course was completed in another state, the applicant shall submit Form 430020 issued by an Iowa school under the rules of the Iowa department of education. The forms are provided to Iowa schools by the department of transportation.*

~~c. An exemption from the driver education requirement may be granted pursuant to Iowa Code section 321.178.~~

This rule is intended to implement Iowa Code sections 321.177, 321.178, 321.189, and 321.196 and 1998 Iowa Acts, House File 2528, section 5.

ITEM 14. Amend subrule 602.13(2) and rule 761—602.13(321), implementation clause, as follows:

**602.13(2) Requirements.**

a. An applicant shall be at least 16 years of age.

b. *Except as otherwise provided in Iowa Code subsection 321.178(3), an An applicant under 18 years of age shall must meet the requirements of 1998 Iowa Acts, House File 2528, section 5, and submit proof of successful completion of an Iowa-approved course in driver education pursuant to paragraph 602.11(2)"b."* ~~An exemption from the driver education requirement may be granted pursuant to Iowa Code section 321.178.~~

c. An applicant under 18 years of age shall also must submit proof of successful completion of an Iowa-approved course in motorcycle rider education on Form 430034. ~~If the course was completed in another state, the applicant shall submit proof of completion to the department on Form 430034.~~

This rule is intended to implement Iowa Code sections 321.177, 321.178, 321.189 and 321.196 and 1998 Iowa Acts, House File 2528, section 5.

ITEM 15. Rescind rules 761—602.20(321) and 761—602.21(321) and adopt new rules 761—602.18(321), 761—602.19(321) and 761—602.21(321) as follows:

**761—602.18(321) Motorcycle instruction permit.** This rule describes a motorcycle instruction permit issued under Iowa Code subsection 321.180(1) or 1998 Iowa Acts, House File 2528, section 5, subsection 1.

**602.18(1) Validity and issuance.**

a. The motorcycle instruction permit is a permit that is added to another license.

b. The permit is valid for operating a motorcycle when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 1998 Iowa Acts, House File 2528, section 5, subsection 1, as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is issued for two years and is not renewable.

**602.18(2) Requirement.** An applicant shall be at least 14 years of age.

## TRANSPORTATION DEPARTMENT[761](cont'd)

This rule is intended to implement Iowa Code sections 321.177 and 321.180 and 1998 Iowa Acts, House File 2528, section 5.

~~761—602.19(321)~~ **Noncommercial instruction permit.** This rule describes a noncommercial instruction permit, other than a motorcycle instruction permit, issued under Iowa Code subsection 321.180(1) or 1998 Iowa Acts, House File 2528, section 5, subsection 1.

~~602.19(1)~~ **Validity and issuance.**

a. The permit is a restricted, noncommercial Class C license.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C license when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 1998 Iowa Acts, House File 2528, section 5, subsection 1, as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is not valid as a motorcycle instruction permit.

e. The permit is issued for two years.

~~602.19(2)~~ **Requirement.** An applicant shall be at least 14 years of age.

This rule is intended to implement Iowa Code sections 321.177 and 321.180 and 1998 Iowa Acts, House File 2528, section 5.

~~761—602.20~~ **Reserved.**

~~761—602.21(321)~~ **Special noncommercial instruction permit.** This subrule describes a special noncommercial instruction permit issued under Iowa Code section 321.180A.

~~602.21(1)~~ **Validity and issuance.**

a. The permit is a restricted, noncommercial Class C license that is issued to a person whose application for renewal has been denied or whose license has been suspended for incapability due to a physical disability.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C license when the permittee is accompanied by a person specified in Iowa Code section 321.180A.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is valid for six months from the date of issuance. It is invalid after the expiration date on the permit.

e. The permit may be reissued for one additional six-month period.

~~602.21(2)~~ **Requirement.** An applicant must submit a medical report pursuant to 761—subrule 600.4(6).

This rule is intended to implement Iowa Code section 321.180A.

ITEM 16. Amend paragraph 602.24(2)“b” as follows:

b. An applicant under 16 years of age shall *must* submit proof of successful completion of an Iowa-approved course in motorized bicycle education ~~on Form 430036.~~

ITEM 17. Amend paragraph 602.25(2)“e” and rule 761—602.25(321), implementation clause, as follows:

e. For a Class M minor’s restricted license, proof of successful completion of an Iowa-approved course in motorcycle *riders* education is required ~~pursuant to paragraph 602.13(2)“c.”.~~

This rule is intended to implement Iowa Code sections 321.178, 321.189 and 321.196 and 1998 Iowa Acts, House File 2528, section 5.

ITEM 18. Amend subrule 602.26(1), paragraphs “b” and “c,” as follows:

b. The license is valid for driving unaccompanied on the most direct route between a licensee’s residence and schools of enrollment and between schools of enrollment from 6 a.m. to 10 p.m. to attend scheduled courses and extracurricular activities ~~at the schools of enrollment within the school district.~~

c. The license is also valid for driving when accompanied by a person specified in ~~Iowa Code paragraph 321.180(1)“b.”~~ 1998 Iowa Acts, House File 2528, section 5, subsection 1. ~~See subrule 602.21(1) for the definition of “immediate family” and for the written permission form that may be needed.~~

ITEM 19. Amend subrule 602.26(2) as follows:

~~602.26(2)~~ **Requirements.**

a. An applicant shall be at least 14 years of age but not yet 18 *and meet the requirements of Iowa Code section 321.194.*

b. An applicant shall submit a statement of necessity signed by the chairperson of the school board, ~~or the superintendent of the school, or the principal of the school if authorized by the superintendent.~~ The statement shall be on Form 430021 ~~which is provided by the department and includes the required form for written consent by the minor’s parent, custodian or guardian.~~

c. An applicant shall submit proof of successful completion of an Iowa-approved course in driver education ~~on Form 430020 or 430021. If the course was completed in another state, the applicant shall submit Form 430020 or 430021 issued by an Iowa school under rules of the department of education. The forms are provided to Iowa schools by the department of transportation.~~

d. For a Class M minor’s school license, proof of successful completion of an Iowa-approved course in motorcycle *riders* education is required ~~pursuant to paragraph 602.13(2)“c.”.~~

ITEM 20. Amend paragraph 602.26(3)“b” and rule 761—602.26(321), implementation clause, as follows:

b. “Demonstrates to the satisfaction of the department” means that the department has received an affidavit *on Form 430021* attesting that completion of the course would impose a hardship upon the applicant. The affidavit shall be signed by the applicant’s parent, custodian or guardian and by the superintendent of the applicant’s school, ~~or the chairperson of the school board, or the principal of the applicant’s school if authorized by the superintendent.~~ ~~The affidavit shall be on Form 430021 which is provided by the department.~~

This rule is intended to implement Iowa Code sections 321.177, ~~321.180~~, 321.189, 321.194 and 321.196 *and 1998 Iowa Acts, House File 2528, sections 5 and 8.*

ITEM 21. Amend subrules 604.1(1), 604.1(2), 604.3(1), 604.7(2), and 604.10(1) by striking the words “motor vehicle license” and inserting in lieu thereof the words “driver’s license” and by striking the words “motor vehicle licenses” and inserting in lieu thereof the words “driver’s licenses”.

ITEM 22. Amend paragraph 604.12(2)“a” as follows:

a. ~~The applicant’s license shall be stamped~~ *The department shall affix a sticker to the applicant’s license stating: “Renewal or license issuance denied due to vision.”*

ITEM 23. Amend paragraph 604.31(2)“a” as follows:

a. The applicant is applying for the applicant’s first Iowa license that permits unaccompanied driving following suc-



## TRANSPORTATION DEPARTMENT[761](cont'd)

cessful completion of ~~an~~ *the appropriate* Iowa-approved course or courses. ~~in~~ *The appropriate Iowa-approved courses are the following:* driver education for a Class C license other than motorized bicycle, driver education and motorcycle *rider* education for a Class M license, ~~or and~~ motorized bicycle education for a motorized bicycle license. However, ~~the:~~

(1) The department may ~~randomly~~ select dates and require a driving test of applicants whose birth dates fall on the selected dates. The department shall notify the Iowa department of education quarterly of the dates selected.

(2) *If an applicant is under age 21, a driving test is required if so requested by the applicant's parent, guardian, or instructor.*

ITEM 24. Amend paragraph **604.40(2)"b"** as follows:

b. After the three unsuccessful attempts, no further testing shall be allowed until six months have elapsed from the date of the last test failure, and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A request for further testing must be submitted in writing to the office of driver services at the address in rule ~~761—602.2(17A)~~ **761—600.2(17A)**.

ITEM 25. Amend rule ~~761—605.1(321)~~; rule ~~761—605.2(321)~~, introductory paragraph; rule ~~761—605.3(321)~~, introductory paragraph; rule ~~761—605.4(321)~~, introductory paragraph; rule ~~761—605.5(321)~~, introductory paragraph; subrule **605.5(1)**, introductory paragraph; and paragraph **605.5(5)"b"** by striking the words "motor vehicle license" and inserting in lieu thereof the words "driver's license" and by striking the words "motor vehicle licenses" and inserting in lieu thereof of the words "driver's licenses".

ITEM 26. Amend subrule **605.5(1)** by adding the following **new** restriction:

Y—Intermediate license

ITEM 27. Amend rule ~~761—605.5(321)~~, implementation clause, as follows:

This rule is intended to implement Iowa Code chapter 321A and sections 321.178, 321.180, 321.189, 321.193, 321.194, 321.215, 321J.4, and 321J.20 and 1998 Iowa Acts, House File 2528, section 5.

ITEM 28. Amend subrule 605.26(1) as follows:

**605.26(1) Scope.** This rule applies to the renewal of non-commercial Classes C, CM, D, DM and M licenses. However, this rule does not apply to *intermediate licenses*, to temporary restricted licenses or to the special licenses and permits listed in ~~761—subrule 602.1(2)~~.

ITEM 29. Amend paragraph **605.26(2)"c"** as follows:

c. The applicant's current license does not carry a "Y" in the restriction supplement box or any of the following restriction codes: C, D, E, F, G, J, Q, R, S, V, W, ~~or~~ X or Y.

ITEM 30. Amend rule ~~761—615.1(321)~~ by adding the following **new** definitions in alphabetical order:

"Accident free" as used in 1998 Iowa Acts, House File 2528, section 5, means the driver has not been involved in a contributive accident. "Involvement in a motor vehicle accident" as used in 1998 Iowa Acts, House File 2528, section 5, means involvement in a contributive accident.

"Contributive accident" means an accident for which there is evidence in departmental records that the driver performed an act which resulted in or contributed to the acci-

dent, or failed to perform an act which would have avoided or contributed to the avoidance of the accident.

"Conviction free" as used in 1998 Iowa Acts, House File 2528, section 5, means the driver has not been convicted of a moving violation.

ITEM 31. Amend rule ~~761—615.1(321)~~, definition of "Moving violation," numbered paragraph **"8,"** as follows:

8. Violations of Iowa Code Supplement section 321.20B ~~by a vehicle owner~~ for failure to provide proof of financial liability coverage.

ITEM 32. Amend subrule 615.14(3) as follows:

**615.14(3)** A person whose license has been suspended for incapability may be eligible for a special *noncommercial* instruction permit under ~~761—subrule 602.21(2)~~ rule ~~761—602.21(321)~~.

ITEM 33. Amend subrules 615.18(2) and 615.18(3) as follows:

**615.18(2)** The suspension period shall begin 30 days after the *department's notice of suspension is served* ~~licensee receives the notice from the department and shall continue until the terms of the citation are met.~~

**615.18(3)** *The suspension shall continue until the department issues a notice terminating the suspension.* The department shall terminate the suspension when it receives evidence of compliance with the terms of the citation.

ITEM 34. Rescind rule ~~761—615.19(321)~~ and insert in lieu thereof the following **new** rule:

**761—615.19(321) Suspension for a charge of vehicular homicide.** In accordance with 1998 Iowa Acts, House File 2394, section 1, the department shall suspend a person's license when the department receives notice from the clerk of the district court that an indictment or information has been filed charging the person with homicide by vehicle under Iowa Code section 707.6A, subsection 1 or 2. The suspension shall begin ten days after the department's suspension notice is issued.

This rule is intended to implement 1998 Iowa Acts, House File 2394, section 1.

ITEM 35. Rescind rule ~~761—615.20(321)~~ and insert in lieu thereof the following **new** rule:

**761—615.20(321) Suspension for moving violation during probation.** The department may suspend the license of a person convicted of a moving violation pursuant to 1998 Iowa Acts, House File 2528, section 10. The suspension period shall not exceed one year.

This rule is intended to implement 1998 Iowa Acts, House File 2528, section 10.

ITEM 36. Amend rule ~~761—615.21(321)~~ as follows:

**761—615.21(321) Suspension of minor's school license and minor's restricted license.**

**615.21(1) Suspension of a minor's school license.**

**615.21(1) a.** The department may suspend a minor's school license upon receiving notice of *the licensee's* conviction for one moving violation or evidence of one or more accidents chargeable to the licensee.

**615.21(2) b.** The department may also suspend a minor's school license when the department receives written notice from a peace officer, parent, custodian or guardian, school superintendent, or superintendent's designee that the licensee has violated the restrictions of the license.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**615.21(3) c.** The suspension period *under this subrule* shall be at least 30 days.

**615.21(2) Suspension of a minor's restricted license.** *The department may suspend a minor's restricted license upon receiving notice of the licensee's conviction for one moving violation. The suspension period shall be at least 30 days.*

This rule is intended to implement Iowa Code ~~section~~ *sections 321.178 and 321.194.*

ITEM 37. Amend rule 761—615.23(321) and renumber rule **761—615.32(321)** as subrule **615.23(2)** as follows:

**761—615.23(321) Suspension for juveniles adjudicated delinquent for certain drug or alcohol offenses** *Suspensions for juveniles.*

**615.23(1) Suspension for juveniles adjudicated delinquent for certain drug or alcohol offenses.**

**615.23(1) a.** Pursuant to Iowa Code section 321.213A, the department shall suspend the license of a person for one year upon receipt of an adjudication and dispositional order from the clerk of the juvenile court.

~~**615.23(2) Reserved.**~~

**615.23(3) b.** A person suspended under this ~~rule~~ *subrule* for a violation of Iowa Code section 123.46 or 123.47 may be issued a temporary restricted license in accordance with rule 761—615.45(321) if the person is otherwise eligible for the license. To obtain a temporary restricted license that is valid for educational purposes, the applicant must meet the requirements for issuance of a minor's school license under Iowa Code section 321.194 and rule 761—602.26(321).

This rule is intended to implement Iowa Code sections 232.52(2)"a"(4), 299.1A, 321.213, 321.213A, 321.213B, and 321.215.

~~**761—615.32(321) Suspension for juvenile's failure to attend school.**~~

**615.23(2) Suspension for juvenile's failure to attend school.**

**615.32(1) a.** The department shall suspend the license of a person under the age of 18 upon receipt of notification from the appropriate school authority that the person does not attend school.

**615.32(2) b.** "School" means a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of Iowa Code chapter 299A, an alternative school or adult education classes.

**615.32(3) c.** "Appropriate school authority" means the superintendent of a public school or the chief administrator of an accredited nonpublic school, an alternative school or adult education.

**615.32(4) d.** The suspension shall continue until the person reaches the age of 18 or until the department receives notification from the appropriate school authority that the person is attending school.

**615.32(5) e.** The person may be issued a temporary restricted license in accordance with rule 761—615.45(321) if the person is employed at least 20 hours per week and is otherwise eligible for the license.

~~This rule is intended to implement Iowa Code sections 299.1A and 321.213B.~~

ITEM 38. Amend rule 761—615.24(252J) as follows:

**761—615.24(252J,261) Suspension upon receipt of a certificate of noncompliance.**

**615.24(1) From child support recovery unit.**

**615.24(1) a.** The department shall suspend a person's Iowa-issued ~~motor vehicle driver's~~ license upon receipt of a certificate of noncompliance from the child support recovery unit.

**615.24(2) b.** The suspension shall begin 30 days after the department's notice of suspension is served.

**615.24(3) c.** The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the child support recovery unit.

**615.24(4) d.** The filing of an application pursuant to Iowa Code section 252J.9 stays the suspension pending the outcome of the district court hearing.

**615.24(2) From college student aid commission.**

**a.** *The department shall suspend a person's Iowa-issued driver's license upon receipt of a certificate of noncompliance from the college student aid commission.*

**b.** *The suspension shall begin 30 days after the department's notice of suspension is served.*

**c.** *The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the college student aid commission.*

**d.** *The filing of an application pursuant to 1998 Iowa Acts, Senate File 2170, section 7, stays the suspension pending the outcome of the district court hearing.*

This rule is intended to implement Iowa Code sections 252J.1, 252J.8 and 252J.9 and 1998 Iowa Acts, Senate File 2170, sections 6 and 7.

ITEM 39. Rescind rule 761—615.26(321) and insert in lieu thereof the following new rule:

**761—615.26(321) Suspension or revocation for violation of a license restriction.** The department may suspend or revoke a person's license when the department receives satisfactory evidence of a violation of a restriction imposed on the license. The suspension or revocation period shall be at least 30 days.

This rule is intended to implement Iowa Code section 321.193.

ITEM 40. Renumber rules **761—615.27(321)** and **761—615.28(321)** as rules **761—615.32(321)** and **761—615.33(321)**.

ITEM 41. Rescind and reserve rules **761—615.31(321)** and **761—615.34(321)**.

ITEM 42. Amend paragraph **615.38(1)"a"** as follows:

**a.** License denials, cancellations and suspensions under Iowa Code sections 321.177 to 321.215 and 321A.4 to 321A.11 except denials under Iowa Code subsection 321.177(10) and suspensions under Iowa Code sections 321.210B, 321.213A and 321.213B and 1998 Iowa Acts, House File 2394, section 1.

ITEM 43. Amend paragraph **615.38(5)"b"** by adding the following new subparagraph (4):

(4) A suspension under 1998 Iowa Acts, House File 2528, section 5.

ITEM 44. Adopt new rule 761—615.42(321) as follows:

**761—615.42(321) Remedial driver improvement action under 1998 Iowa Acts, House File 2528, section 5.**

**615.42(1)** The department shall require remedial driver improvement action when a person holding an instruction permit or intermediate license under 1998 Iowa Acts, House File 2528, section 5, is convicted of a moving violation or has a contributive accident.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**615.42(2)** Completion of remedial driver improvement action means completion of a driver improvement interview with the department plus any suspension ordered by the department as a result of the interview.

**615.42(3)** Participation in the driver improvement interview by both the licensee and the licensee's parent or guardian may be required. The interview shall be held by a reviewing officer appointed by the director of the office of driver services. The interview may include one or more of the following: a discussion of motor vehicle laws, a discussion of driving behavior, a vision screening, a knowledge examination, and a driving examination.

**615.42(4)** The department may take one or more of the following actions after the interview and shall take one or more of the following actions if the licensee fails to appear for or does not otherwise complete the interview:

a. Execute an agreement with the licensee and the parent or guardian, setting out a plan to improve the licensee's driving behavior.

b. Add appropriate license restrictions.

c. Suspend the licensee's driving privilege.

**615.42(5)** A suspension period under this rule shall be for no less than 30 days nor longer than one year. A person whose driving privilege has been suspended under this rule is not eligible for a temporary restricted license.

**615.42(6)** Remedial driver improvement action or suspension under this rule terminates when a person attains the age of 18.

This rule is intended to implement 1998 Iowa Acts, House File 2528, section 5.

ITEM 45. Amend subrule **615.45(1)** by adding the following new paragraphs:

l. Whose license has been suspended due to receipt of a certificate of noncompliance from the college student aid commission.

m. Whose license has been suspended for a charge of vehicular homicide.

n. Who has been suspended under 1998 Iowa Acts, House File 2528, section 5.

ITEM 46. Amend subrule **620.3(3)** by adding the following new paragraph:

d. Pay the \$200 civil penalty.

ITEM 47. Amend paragraph **620.4(2)"c"** as follows:

c. An appeal of the administrative law judge's decision shall be submitted in writing by sending the original and ~~two~~ *one copy* of the appeal to the director of the office of driver services at the address given in 761—620.2(321J).

ITEM 48. Amend rule 761—620.5(321J) by adding the following new subrule:

**620.5(7)** Provided proof of deinstallation of the ignition interlock device if one was installed for a temporary restricted license.

ITEM 49. Amend 761—Chapter 620 by adding the following new rule:

**761—620.6(321J) Issuance of temporary restricted license after revocation period has expired.** The department may issue a temporary restricted license to a person whose period of revocation under Iowa Code chapter 321J has expired but who has not met all the requirements for license reinstatement. The period of issuance shall be determined by the department, but it shall not exceed six months from the end of the original revocation period.

**620.6(1)** An applicant for a temporary restricted license under this rule must meet one of the following two conditions:

a. The applicant must demonstrate to the satisfaction of the department that a course for drinking drivers was not readily available to the person during the revocation period and that the applicant has enrolled in a course for drinking drivers. The applicant must furnish the dates the class will begin and end.

b. The applicant must demonstrate to the satisfaction of the department that substance abuse evaluation and treatment or rehabilitation services have not been completed because of an inability to schedule them or because they are ongoing.

**620.6(2)** An applicant for a temporary restricted license under this rule must meet all other conditions for issuance of a temporary restricted license under rule 761—620.3(321J) and Iowa Code section 321J.20, including installation of an ignition interlock device.

ITEM 50. Amend the title of **761—Chapter 625**; rule **761—625.1(321)**; subrule **625.2(1)**, introductory paragraph; and subrule **625.6(2)** by striking the words "motor vehicle license" and inserting in lieu thereof the words "driver's license" and by striking the words "motor vehicle licenses" and inserting in lieu thereof the words "driver's licenses".

ITEM 51. Amend subrule **625.6(1)** by striking the words "1997 Iowa Acts, Senate File 229, sections 1 and 2" and inserting in lieu thereof the words "Iowa Code sections 22.7 and 321.189A".

ITEM 52. Amend **761—Chapter 625**, implementation clause, by striking the words "1997 Iowa Acts, Senate File 229" and inserting in lieu thereof the words "Iowa Code sections 22.7 and 321.189A".

ITEM 53. Amend subrule **630.1(1)** by striking the words "motor vehicle license" and inserting in lieu thereof the words "driver's license".

ITEM 54. Amend paragraph **641.3(1)"f"** as follows:

f. ~~Either one of the following:~~

(1) ~~Type of coverage provided; for example, personal automobile, business automobile, commercial automobile.~~

(2) The statement, "Coverage provided by this policy meets the minimum liability limits prescribed by law," or a statement that is substantially similar.

ITEM 55. Amend paragraph **641.3(2)"e"** as follows:

e. ~~Either one of the following:~~

(1) ~~Type of coverage provided; for example, personal automobile, business automobile, commercial automobile.~~

(2) The statement, "Coverage provided by this policy meets the minimum liability limits prescribed by law," or a statement that is substantially similar.

ITEM 56. Amend subrule **641.3(3)** by striking paragraph "d" and relettering paragraph "e" as paragraph "d."

## NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Michael K.

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

Guttau, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for September is 7.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written de-

scription of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective September 9, 1998, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7 - 31 days . . . . . Minimum 4.40%
- 32 - 89 days . . . . . Minimum 4.40%
- 90 - 179 days . . . . . Minimum 5.00%
- 180 - 364 days . . . . . Minimum 5.20%
- One year . . . . . Minimum 5.20%
- Two years or more . . . . . Minimum 5.20%

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

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

## ARC 8344A

EMERGENCY MANAGEMENT  
DIVISION[605]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3, 34A.6, and 34A.22, the Emergency Management Division hereby rescinds Chapter 10, "Enhanced 911 Telephone Systems," Iowa Administrative Code, and adopts a new Chapter 10 with the same title.

The Emergency Management Division is rescinding current rules and adopting a new chapter due to significant changes in structure and content. These rules provide for uniform procedures regarding the establishment of joint E911 service boards, submittal of E911 service plans, the establishment of an E911 surcharge, and minimum standards for E911 operations. In addition, these rules implement 1998 Iowa Acts, Senate File 530, which provides for the establishment of an enhanced wireless 911 service and surcharge.

In compliance with Iowa Code section 17A.4(2), the Emergency Management Division finds that notice and public participation are impracticable because of the immediate need to meet new law requirements requiring that rules for the implementation of an enhanced wireless 911 surcharge must be effective no later than January 1, 1999.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective on September 4, 1998, as they confer a benefit upon joint E911 service boards, the Iowa Department of Public Safety, and E911 service providers.

The Iowa Emergency Management Division adopted these rules on September 4, 1998.

These rules are also published herein under Notice of Intended Action as ARC 8343A to allow for public comment.

These rules are intended to implement Iowa Code chapter 34A.

These rules became effective September 4, 1998.

Rescind 605—Chapter 10 and adopt the following new chapter:

## CHAPTER 10

## ENHANCED 911 TELEPHONE SYSTEMS

**605—10.1(34A) Program description.** The purpose of this program is to provide for the orderly development, installation, and operation of enhanced 911 emergency telephone systems and to provide a mechanism for the funding of these systems, either in whole or in part. These systems shall be operated under governmental management and control for the public benefit. These rules shall apply to each joint 911 service board or alternative 28E entity as provided in Iowa Code chapter 34A and to each provider of enhanced 911 service.

**605—10.2(34A) Definitions.** As used in this chapter, unless context otherwise requires:

"Access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the telephone company's switching office.

"Administrator," unless otherwise noted, means the administrator of the Iowa emergency management division.

"Automatic location identification (ALI)" means a system capability that enables an automatic display of informa-

tion defining a geographical location of the telephone used to place the 911 call.

"Automatic number identification (ANI)" means a capability that enables the automatic display of the number of the telephone used to place the 911 call.

"Call attendant" means the person who initially answers a 911 call.

"Call detail recording" means a means of establishing chronological and operational accountability for each 911 call processed, consisting minimally of the caller's telephone number, the date and time the 911 telephone equipment established initial connection (trunk seizure), the time the call was answered, the time the call was transferred (if applicable), the time the call was disconnected, the trunk line used, and the identity of the call attendant's position, also known as an ANI printout.

"Call relay method" means the 911 call is answered at the PSAP, where the pertinent information is gathered, and the call attendant relays the caller's information to the appropriate public or private safety agency for further action.

"Call transfer method" means the call attendant determines the appropriate responding agency and transfers the 911 caller to that agency.

"Central office (CO)" means a telephone company facility that houses the switching and trunking equipment serving telephones in a defined area.

"Coin-free access (CFA)" means coin-free dialing or no-coin dial tone which enables a caller to dial 911 or "0" for operator without depositing money or incurring a charge.

"Conference transfer" means the capability of transferring a 911 call to the action agency and allowing the call attendant to monitor or participate in the call after it has been transferred to the action agency.

"Direct dispatch method" means 911 call answering and radio-dispatching functions, for a particular agency, are both performed at the PSAP.

"E911 communications council" means the council as established under the provisions of Iowa Code section 34A.15.

"E911 program manager" means that person appointed by the administrator of the Iowa emergency management division to administer the state-enhanced 911 program and the provisions of Iowa Code chapter 34A.

"Emergency call" means a telephone request for service which requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property and respond to other emergency situations determined by local policy.

"Enhanced 911 (E911)" means the general term referring to emergency telephone systems with specific electronically controlled features, such as ALI, ANI, and selective routing.

"Enhanced 911 (E911) operating authority" means the public entity, which operates an E911 telephone system for the public benefit, within a defined enhanced 911 service area.

"Enhanced 911 (E911) service area" means the geographic area to be served, or currently served under an enhanced 911 service plan, provided that any enhanced 911 service area shall at a minimum encompass one entire county. The enhanced 911 service area may encompass more than one county and need not be restricted to county boundaries. This definition applies only to wire-line enhanced 911 service.

"Enhanced 911 (E911) service plan (wire-line)" means a plan, produced by a joint E911 service board, which includes the information required by Iowa Code subsection 34A.2(6).

"Enhanced 911 service surcharge" means a charge set by the joint E911 service board, approved by local referendum,

## EMERGENCY MANAGEMENT DIVISION[605](cont'd)

and assessed on each access line which physically terminates within the E911 service area.

"Enhanced wireless 911 service area" means the geographic area to be served, or currently served, by a PSAP under an enhanced wireless 911 service plan.

"Enhanced wireless 911 service, phase I" means an emergency wireless telephone system with specific electronically controlled features such as ANI, specific indication of wireless communications tower site location, selective routing by geographic location of the tower site.

"Enhanced wireless 911 service, phase II" means an emergency wireless telephone system with specific electronically controlled features such as ANI and ALI and selective routing by geographic location of the 911 caller.

"Exchange" means a defined geographic area served by one or more central offices in which the telephone company furnishes services.

"Implementation" means the activity between formal approval of an E911 service plan and a given system design, and commencement of operations.

"Joint E911 service board" means those entities created under the provisions of Iowa Code section 34A.3, which include the legal entities created pursuant to Iowa Code chapter 28E referenced in Iowa Code subsection 34A.3(3).

"911 call" means any telephone call that is made by dialing the digits 911.

"911 system" means a telephone system that automatically connects a caller, dialing the digits 911, to a PSAP.

"Nonrecurring costs" means one-time charges incurred by a joint E911 service board or operating authority including, but not limited to, expenditures for E911 service plan preparation, surcharge referendum, capital outlay, installation, and initial license to use subscriber names, addresses and telephone information.

"One-button transfer" means another term for a (fixed) transfer which allows the call attendant to transfer an incoming call by pressing a single button. For example, one button would transfer voice and data to a fire agency, and another button would be used for police, also known as "selective transfer."

"Political subdivision" means a geographic or territorial division of the state that would have the following characteristics: defined geographic area, responsibilities for certain functions of local government, public elections and public officers, and taxing power. Excluded from this definition are departments and divisions of state government and agencies of the federal government.

"Provider" means a person, company or other business that provides, or offers to provide, 911 equipment, installation, maintenance, or access services.

"Public or private safety agency" means a unit of state or local government, a special purpose district, or a private firm, which provides or has the authority to provide firefighting, police, ambulance, or emergency medical services.

"Public safety answering point (PSAP)" means a 24-hour, state or local jurisdiction communications facility, which receives 911 service calls and directly dispatches emergency response services or relays calls to the appropriate public or private safety agency.

"Public switched telephone network" means a complex of diversified channels and equipment that automatically routes communications between the calling person and called person or data equipment.

"Recurring costs" means repetitive charges incurred by a joint E911 service board or operating authority including, but not limited to, database management, lease of access

lines, lease of equipment, network access fees, and applicable maintenance costs.

"Selective routing (SR)" means an enhanced 911 system feature that enables all 911 calls originating from within a defined geographical region to be answered at a pre-designated PSAP.

"Subscriber" means any person, firm, association, corporation, agencies of federal, state and local government, or other legal entity responsible by law for payment for communication service from the telephone utility.

"Tariff" means a document filed by a telephone company with the state telephone utility regulatory commission which lists the communication services offered by the company and gives a schedule for rates and charges.

"Telecommunications device for the deaf (TDD)" means any type of instrument, such as a typewriter keyboard connected to the caller's telephone and involving special equipment at the PSAP which allows an emergency call to be made without speaking, also known as a TTY.

"Trunk" means a circuit used for connecting a subscriber to the public switched telephone network.

"Wireless communications service" means commercial mobile radio service, as defined under Sections 3(27) and 332(d) of the federal Telecommunications Act of 1996, 47 U.S.C. Sections 151 et seq.; Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993. Wireless communications service includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent. For purposes of wireless 911 surcharge, wireless communications service does not include services whose customers do not have access to 911, or a 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

"Wireless communications surcharge" means a surcharge of up to 50 cents imposed on each wireless communications service number provided in this state and collected as part of a wireless communications service provider's monthly billing to a subscriber.

**605—10.3(34A) Joint E911 service boards.** Each county board of supervisors shall establish a joint E911 service board.

**10.3(1) Membership.**

a. Each political subdivision of the state, having a public safety agency serving territory within the E911 service area, is entitled to voting membership.

b. Each private safety agency, such as privately owned ambulance services, airport security agencies, and private fire companies, serving territory within the E911 service area, is entitled to a nonvoting membership on the board.

c. Public and private safety agencies headquartered outside but operating within an E911 service area are entitled to membership according to their status as a public or private safety agency.

d. A political subdivision, which does not operate its own public safety agency, but contracts for the provision of public safety services, is not entitled to membership on the joint 911 service board. However, its contractor is entitled to membership according to the contractor's status as a public or private safety agency.

e. The joint 911 board elects a chairperson and cochairperson.

**10.3(2) Alternate 28E entity.** The joint 911 board may organize as an Iowa Code chapter 28E agency as authorized in Iowa Code subsection 34A.3(3), provided that the 28E entity

## EMERGENCY MANAGEMENT DIVISION[605](cont'd)

meets the voting and membership requirements of Iowa Code subsection 34A.3(1).

**10.3(3) Joint E911 service board bylaws.** Each joint E911 service board shall develop bylaws to specify, at a minimum, the following information:

- a. The name of the joint E911 service board.
- b. A list of voting and nonvoting members.
- c. The date for the commencement of operations.
- d. The mission.
- e. The power and duties.
- f. The manner for financing activities and maintaining a budget.
- g. The manner for acquiring, holding and disposing of property.
- h. The manner for electing or appointing officers and terms of office.
- i. The manner by which members may vote to include, if applicable, the manner by which votes may be weighted.
- j. The manner for appointing, hiring, disciplining, and terminating employees.
- k. The rules for conducting meetings.
- l. The permissible method or methods to be employed in accomplishing the partial or complete termination of the board and the disposing of property upon such complete or partial termination.
- m. Any other necessary and proper rules or procedures. Each member shall sign the adopted bylaws.

The joint E911 service board shall record the signed bylaws with the county recorder and shall forward a copy of the signed bylaws to the E911 program administrator at the state emergency management division.

**10.3(4) Executive board.** The joint E911 service board may, through its bylaws, establish an executive board to conduct the business of the joint E911 service board. The executive board will have such other duties and responsibilities as assigned by the joint E911 service board.

**10.3(5) Meetings.**

a. The provisions of Iowa Code chapter 21, "Official Meetings Open to the Public," are applicable to joint 911 service boards.

b. Joint E911 service boards shall conduct meetings in accordance with their established bylaws and applicable state law.

**605—10.4(34A) Enhanced 911 service plan (wire-line).**

**10.4(1)** The joint E911 service board shall be responsible for developing an E911 service plan as required by Iowa Code section 34A.3 and as set forth in these rules. The plan will remain the property of the joint E911 service board. Each joint E911 board shall coordinate planning with each contiguous joint E911 service board. A copy of the plan and any modifications and addenda shall be submitted to:

- a. The state emergency management division.
- b. All public and private safety agencies serving the E911 service area.
- c. All providers affected by the E911 service plan.

**10.4(2)** The E911 service plan shall, at a minimum, encompass the entire county, unless a waiver is granted by the administrator. Each plan shall include:

- a. The mailing address of the joint E911 service board.
- b. A list of voting members on the joint E911 service board.
- c. A list of nonvoting members on the joint E911 service board.
- d. The name of the chairperson and cochairperson of the joint E911 service board.

e. A geographical description of the enhanced 911 service area.

f. A list of all public and private safety agencies within the E911 service area.

g. The number of public safety answering points within the E911 service area.

h. Identification of the agency responsible for management and supervision of the E911 emergency telephone communication system.

i. A statement of estimated charges to be incurred by the joint 911 service board, including separate estimates of recurring and nonrecurring charges. These charges shall be limited to charges directly attributable to the provision of E911 service. The charges shall include the following:

(1) Item(s) or unit(s) of measurement, or both, and the associated tariff prices applicable in the development of the charges.

(2) Where tariff prices are not available, work papers showing the development of the charges by item(s)/unit(s) shall be included.

(3) Charges shall be justified as being attributable to the provision of E911 telephone communication service.

j. Information from telephone service providers detailing the current equipment operated by the provider to provide telephone service and additional central office equipment or technology upgrades, or both, necessary to implement E911 service.

k. The total number of telephone access lines by telephone company or companies having points of presence within the E911 service area and the number of this total that is exempt from surcharge collection as provided in rule 10.9(34A) and Iowa Code subsection 34A.7(3).

l. The estimated number of pay telephones within the E911 service area.

m. If applicable, a schedule for implementation of the plan throughout the E911 service area. A joint E911 service board may decide not to implement E911 service.

n. The total property valuation in the E911 service area.

o. Maps of the E911 service area showing:

(1) The jurisdictional boundaries of all law enforcement agencies serving the area.

(2) The jurisdictional boundaries of all firefighting districts and companies serving the area.

(3) The jurisdictional boundaries of all ambulance and emergency medical service providers operating in the area.

(4) Telephone exchange boundaries and the location of telephone company central offices, including those located outside but serving the service area.

(5) The location of PSAP(s) within the service area.

p. A block drawing for each telephone central office within the service area showing the method by which the 911 call will be delivered to the PSAP(s).

**10.4(3)** All plan modifications and addenda shall be filed with, reviewed, and approved by the E911 program manager.

**10.4(4)** The E911 program manager shall base acceptance of the plan upon compliance with the provisions of Iowa Code chapter 34A and the rules herein.

**10.4(5)** The E911 program manager will notify in writing, within 20 days of review, the chairperson of the joint E911 service board of the approval or disapproval of the plan.

a. If the plan is disapproved, the joint E911 service board will have 90 days from receipt of notice to submit revisions/addenda.

EMERGENCY MANAGEMENT DIVISION[605](cont'd)

b. Notice for disapproved plans will contain the reasons for disapproval.

c. The E911 program manager will notify, in writing within 20 days of review, the chairperson of the approval or disapproval of the revisions.

**605—10.5(34A) Waivers, variance request, and right to appeal.**

**10.5(1)** All requests for variances or waivers shall be submitted to the E911 program manager in writing and shall contain the following information:

a. A description of the variance(s) or waiver(s) being requested.

b. Supporting information setting forth the reasons the variance or waiver is necessary.

c. A copy of the resolution or minutes of the joint E911 service board meeting which authorizes the application for a variance or waiver.

d. The signature of the chairperson of the joint E911 service board.

**10.5(2)** The E911 program manager may grant a variance or waiver based upon the provisions of Iowa Code chapter 34A or other applicable state law.

**10.5(3)** Upon receipt of a request for a variance or waiver, the E911 program manager shall evaluate the request and schedule a review within 20 working days of receipt of the request. Review shall be informal and the petitioner may present materials, documents and testimony in support of the petitioner's request. The E911 program manager shall determine if the request meets the criteria established and shall issue a decision within 20 working days. The E911 program manager shall notify, in writing, the petitioner of the acceptance or rejection of the petition. If the petition is rejected, such notice shall include the reasons for denial.

**605—10.6(34A) Enhanced wireless 911 service plan.** Each joint E911 service board, the Iowa department of public safety, and the E911 communications council shall cooperate with the E911 program manager in preparing an enhanced wireless 911 service plan for statewide implementation of enhanced wireless 911 phase I and phase II implementation. The enhanced wireless 911 service plan shall include, at a minimum, the following information:

1. Maps showing geographic area to be served by each PSAP receiving enhanced wireless 911 telephone calls.

2. A list of all public and private safety agencies within the enhanced wireless 911 service area.

3. The geographic location of each PSAP receiving enhanced wireless 911 calls and the name of the person responsible for the management of the PSAP.

4. A statement of estimated charges for the implementation and operation of enhanced wireless 911 phase I and phase II service, detailing the equipment operated or needed to operate enhanced wireless 911 service, including any technology upgrades necessary to provide service. Charges must be directly attributable to the implementation and operation of enhanced wireless 911 service. Charges shall be detailed showing item(s) or unit(s) of cost, or both, and include estimated charges from:

- Wireless service providers.
- Wire-line service providers for implementation and operation of enhanced wireless 911 service.
- Public safety answering points.

5. A schedule for the implementation of enhanced wireless 911 phase I and phase II service.

**605—10.7(34A) Referendum and surcharge (wire-line).**

**10.7(1)** The surcharge referendum may be initiated only by the joint 911 service board and shall be conducted in accordance with the provisions of Iowa Code sections 34A.6 and 34A.6A and Iowa Administrative Code 721—21.810(34A). The surcharge is not a local option tax that can be presented to the voters under Iowa Code chapter 422B.

**10.7(2)** The following information shall be filed with the E911 program manager before the surcharge may be imposed.

a. A copy of the "Abstract of Election" (Form 156-K) from each commissioner of elections, in each county or partial county included within the E911 service area, showing passage of the referendum allowing for the imposition of a surcharge for E911 service.

b. An E911 service plan for the proposed E911 service area approved by the joint E911 service board.

c. A letter signed by the chairperson of the joint E911 service board requesting that the surcharge be imposed within the E911 service area.

**10.7(3)** The E911 program manager shall notify a provider scheduled to provide exchange access E911 service within an E911 service area that implementation of an E911 service plan has been approved by the joint 911 service board, E911 program manager, and by the service area referendum, and that collection of the surcharge is to begin within 100 days.

**10.7(4)** The provider shall collect the surcharge as a part of its monthly billing to its subscribers. The surcharge shall appear as a single line item on a subscriber's monthly billing entitled "E911 emergency telephone service surcharge."

**10.7(5)** The provider may retain 1 percent of the surcharge collected as compensation for the billing and collection of the surcharge. If the compensation is insufficient to fully recover a provider's costs for the billing and collection of the surcharge, the deficiency shall be included in the provider's costs for rate-making purposes to the extent it is reasonable and just under Iowa Code section 476.6.

**10.7(6)** The provider shall remit collected surcharge to the joint 911 service board on a calendar-quarter basis within 20 days of the end of the quarter.

**10.7(7)** Collection for a surcharge shall terminate at the end of 24 months if E911 service is not initiated for all or a part of the E911 service area as stated in Iowa Code subsection 34A.6(1). The E911 program manager for good cause may grant an extension.

a. The administrator shall provide 100 days' prior written notice to the joint 911 service board or the operating authority and to the service provider(s) collecting the fee of the termination of surcharge collection.

b. Individual subscribers within the E911 service area may petition the joint 911 service board or the operating authority for a refund. Petitions shall be filed within one year of termination. Refunds may be prorated and shall be based on funds available and subscriber access lines billed.

c. At the end of one year from the date of termination, any funds not refunded and remaining in the E911 service fund and all interest accumulated shall be retained by the joint E911 service board. However, if the joint E911 service board ceases to operate any E911 service, the balance in the E911 service fund shall be payable to the state emergency management division. Moneys received by the division shall be used only to offset the costs for the administration of the E911 program.

**605—10.8(34A) E911 surcharge (wireless).**

**10.8(1)** The E911 program manager shall adopt a monthly surcharge of up to 50 cents to be imposed on each wireless communications service number provided in this state. The



## EMERGENCY MANAGEMENT DIVISION[605](cont'd)

amount of wireless surcharge to be collected may be adjusted once yearly, but in no case shall the surcharge exceed 50 cents per month, per customer service number.

**10.8(2)** The amount of wireless surcharge to be collected during a fiscal year shall be determined by the administrator's best estimation of enhanced wireless 911 costs for the ensuing fiscal year. The E911 program manager shall base the estimated cost on information provided by the E911 communications council, wireless service providers, vendors, public safety agencies, joint E911 service boards and any other appropriate parties or agencies involved in the provision or operation of enhanced wireless 911 service.

**10.8(3)** The E911 program manager shall order the imposition of surcharge uniformly on a statewide basis and simultaneously on all wireless communications service numbers by giving at least 100 days' prior notice to wireless carriers to impose a monthly surcharge as part of their periodic billings. The 100-day notice to wireless carriers shall also apply when making an adjustment in the wireless surcharge rate.

**10.8(4)** The wireless carrier is entitled to retain 1 percent of any wireless surcharge collected as a fee for collecting the surcharge as part of the subscriber's periodic billing.

**10.8(5)** Remaining surcharge funds shall be remitted on a calendar-quarter basis, within 20 days following the end of the quarter with a remittance form as prescribed by the E911 program manager. Providers shall issue their checks or warrants to the Treasurer, State of Iowa, and remit to the E911 Program Manager, Iowa Emergency Management Division, Hoover State Office Building, Des Moines, Iowa 50319.

**605—10.9(34A) E911 surcharge exemptions.** The following agencies, individuals, and organizations are exempt from imposition of the E911 surcharge:

1. Federal agencies and tax-exempt instrumentalities of the federal government.
2. Indian tribes for access lines on the tribe's reservation upon filing a statement with the joint E911 service board, signed by appropriate authority, requesting surcharge exemption.
3. An enrolled member of an Indian tribe for access lines on the reservation, who does not receive E911 service, and who annually files a signed statement with the joint E911 service board that the person is an enrolled member of an Indian tribe living on a reservation and does not receive E911 service. However, once E911 service is provided, the member is no longer exempt.
4. Official station testing lines owned by the provider.
5. Individual wire-line subscribers to the extent that they shall not be required to pay on a single periodic billing the surcharge on more than 100 access lines, or their equivalent, in an E911 service area.

All other subscribers not listed above, that have or will have the ability to access 911, are required to pay the surcharge, if imposed by the official order of the E911 program manager.

**605—10.10(34A) Wireless E911 emergency communications fund.**

**10.10(1)** Wireless E911 surcharge money, collected and remitted by wireless service providers, shall be placed in a fund within the state treasury under the control of the administrator.

**10.10(2)** Iowa Code section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section. However, moneys in the fund

may be combined with other moneys in the state treasury for purposes of investment.

**10.10(3)** Moneys in the fund shall be expended and distributed in the order and manner as follows:

a. An amount as appropriated by the general assembly to the emergency management division for implementation, support, and maintenance of the functions of the E911 program.

b. The administrator shall retain funds necessary to reimburse wireless service providers for their eligible costs to deliver E911 services. Those eligible costs include all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by providers in designing, upgrading, leasing, purchasing, programming, installing, testing, delivering, or maintaining all necessary data, hardware, software, and local exchange telephone service required to provide wireless E911 service, and may include other costs directly attributable to the provision of enhanced wireless 911 service.

**10.10(4)** Payments to wireless service providers shall be made quarterly, based on original, itemized claims or invoices presented within 20 days of the end of the calendar quarter. Payments to wireless service providers shall be made in accordance with these rules and the State of Iowa Accounting Policies and Procedures.

**10.10(5)** Wireless service providers shall be reimbursed for only those items and services ordered and authorized by the E911 program manager.

**10.10(6)** If the total amount of moneys available in the fund for the reimbursement of wireless service providers is insufficient to reimburse all wireless service providers for their eligible expenses, the E911 program manager shall remit an amount to each wireless service provider equal to the percentage of the provider's eligible expenses as compared to the total of all eligible expenses for all wireless service providers for the calendar quarter during which such expenses were submitted.

**10.10(7)** If moneys remain in the fund, they shall be distributed to the department of public safety and joint E911 service boards to be used for the implementation of enhanced wireless communications capabilities.

**10.10(8)** The department of public safety or a joint E911 service board, to receive funds from the E911 emergency communications fund, must submit a written request for such funds to the E911 program manager in a form as approved by the manager.

**10.10(9)** Requests shall be for funding under the approved statewide enhanced wireless 911 service plan for equipment which is directly related to the reception and disposition of incoming enhanced wireless 911 calls.

**10.10(10)** If insufficient funds are available to fund all requests, the E911 program manager shall fund requests in an order deemed appropriate by the manager, consistent with the statewide enhanced wireless 911 service plan, and after considering factors including, but not limited to, the documented volume of enhanced wireless 911 calls received by each PSAP, the population served by each PSAP, the number of wireless telephones in the PSAP jurisdiction, the public safety of the citizens of the state, and any other factor deemed appropriate by the E911 program manager, in consultation with the E911 communications council.

**605—10.11(34A) E911 service fund.**

**10.11(1)** The Iowa department of public safety and each joint E911 service board have the responsibility for the E911 service fund.

## EMERGENCY MANAGEMENT DIVISION[605](cont'd)

a. An E911 service fund shall be established in the office of the county treasurer for each joint E911 service board and with the state treasurer for the Iowa department of public safety.

b. Collected surcharge moneys and any interest thereon, as authorized in Iowa Code chapter 34A, shall be deposited into the E911 service fund. E911 surcharge moneys must be kept separate from all other sources of revenue utilized for E911 systems.

c. For joint E911 service boards, withdrawal of moneys from the E911 service fund shall be made on warrants drawn by the county auditor, per Iowa Code section 331.506, supported by claims and vouchers approved by the chairperson or cochairperson of the joint 911 service board or the appropriate operating authority so designated in writing.

d. For the Iowa department of public safety, withdrawal of moneys from the E911 service fund shall be made in accordance with state laws and administrative rules.

**10.11(2)** The E911 service funds shall be subject to examination by the division at any time during usual business hours. E911 service funds are subject to the audit provisions of Iowa Code chapter 11. A copy of all audits of the E911 service fund shall be furnished to the division within 30 days of receipt. If through the audit or monitoring process the division determines that a joint 911 service board or the Iowa department of public safety is not adhering to an approved plan or is not using funds in the manner prescribed in these rules or Iowa Code chapter 34A, the administrator may, after notice and hearing, suspend surcharge imposition and order termination of expenditures from the E911 service fund. The joint E911 service board or Iowa department of public safety is not eligible to receive or expend surcharge moneys until such time as the E911 program manager determines that the board or department is in compliance with the approved plan and fund usage limitations.

**605—10.12(34A) Operating budgets.**

**10.12(1)** Each joint E911 service board and the Iowa department of public safety shall provide a copy, to the E911 program manager, within 30 days of adoption, of the operating budget for the ensuing fiscal year for the fund as established under subrule 10.11(1).

**10.12(2)** The E911 program manager shall, upon review of the operating budget, make necessary adjustments to the surcharge as provided in Iowa Code chapter 34A.

**605—10.13(34A) Limitations on use of funds.** Surcharge money in the E911 service fund may be used to pay recurring and nonrecurring costs including, but not limited to, network equipment, software, database, addressing, initial training, and other start-up, capital, and ongoing expenditures. E911 surcharge moneys shall be used only to pay costs directly attributable to the provision of E911 telephone systems and services and may include costs for portable and vehicle radios, communication towers and associated equipment, and other radios and equipment permanently located in the public safety answering point.

**605—10.14(34A) Minimum operational and technical standards.**

**10.14(1)** Each E911 system, supplemented with E911 surcharge moneys, shall, at a minimum, employ the following features:

- a. ALI (automatic location identification).
- b. ANI (automatic number identification).
- c. Ability to selectively route.
- d. Each PSAP shall provide two emergency seven-digit numbers arranged in rollover configuration for use by tele-

phone company operators for transferring a calling party to the PSAP.

e. ANI and ALI information shall be maintained and updated in such a manner as to allow for 95 percent or greater degree of accuracy.

**10.14(2)** E911 public safety answering points shall adhere to the following minimum standards:

a. The PSAP shall operate 7 days per week, 24 hours per day, with operators on duty at all times.

b. The primary published emergency number in the E911 service area shall be 911.

c. All PSAPs will maintain interagency communications capabilities for emergency coordination purposes, to include radio as well as land line direct or dial line.

d. Each PSAP shall develop and maintain a PSAP standard operating procedure for receiving and dispatching emergency calls.

e. The date and time of each 911 emergency call shall be documented using an automated call detail recording device or other communications center log. Such logs shall be maintained for a period of not less than one year.

f. If a call transfer method of handling 911 calls is employed, a 99 percent degree of reliability of transferred calls from a PSAP to responding agencies shall be maintained. All transferred calls shall employ, to the closest extent possible, conference transfer capabilities which provide that the call be announced and monitored by the PSAP operator to ensure that the call has been properly transferred.

g. PSAPs not employing the transfer method of handling 911 emergency calls shall use the call relay method. Information shall be exchanged between the PSAP receiving the call and an appropriate emergency response agency or dispatch center having jurisdiction in the area of the emergency. In no case during an emergency 911 call shall the caller be referred to another telephone number and required to hang up and redial. The call relay method shall also prevail in circumstances where emergency calls enter the 911 system (whether by design or by happenstance) from outside the E911 service area.

h. Access control and security of PSAPs and associated dispatch centers shall be designed to prevent disruption of operations and provide a safe and secure environment of communication operations.

i. PSAP supervision shall ensure that all telephone company employees, whose normal activities may involve contact with facilities associated with the 911 service, are familiar with safeguarding of facilities' procedures.

j. Emergency electrical power shall be provided for the PSAP environment that will ensure continuous operations and communications during a power outage. Such power should start automatically in the event of power failure and shall have the ability to be sustained for a minimum of 48 hours.

k. The PSAP shall make every attempt to disallow the intrusion by automatic dialers, alarm systems, or automatic dialing and announcing devices on a 911 trunk. If intrusion by one of these devices should occur, those responsible for PSAP operations shall make every attempt to contact the responsible party to ensure there is no such further occurrence.

l. Each PSAP shall be equipped with an appropriate telecommunications device for the deaf (TDD) in accordance with 28 CFR Part 35.162, July 26, 1991.

**10.14(3)** Service providers shall adhere to the following minimum requirements:

EMERGENCY MANAGEMENT DIVISION[605](cont'd)

a. The PSAP shall be notified of service interruptions in accordance with the provisions of Iowa Administrative Code 199—paragraph 22.6(3)“c.”

b. All service providers shall submit separate itemized bills to the E911 program manager, the Iowa department of public safety, a joint E911 service board or PSAP operating authority, as appropriate.

c. The service provider shall respond, within a reasonable length of time, to all appropriate requests for information from the administrator, the Iowa department of public safety, a joint 911 service board or operating authority and shall expressly comply with the provisions of Iowa Code section 34A.8.

**10.14(4) Voluntary standards.** Current technical and operations standards applying to E911 systems and services can be found in the “American Society for Testing and Materials Standard Guide for Planning and Developing 911 Enhanced Telephone Systems” and in publications issued by the National Emergency Number Association. Standards contained in these documents shall be considered as guidance, and adherence thereto shall be voluntary. Notwithstanding the minimum standards published in these rules, it is intended that E911 telephone service providers, joint E911 service boards and operating authorities employ the best and most affordable technologies and methods available in providing E911 services to the public.

**605—10.15(34A) Administrative hearings and appeals.**

**10.15(1)** Administrator decisions regarding the acceptance or refusal of an E911 service plan, in whole or in part, the implementation of E911 and the imposition of the E911 surcharge within a specific E911 service area may be contested by an affected party.

**10.15(2)** Request for a hearing shall be made in writing to the administrator within 30 days of the administrator’s mailing or serving a decision and shall state the reason(s) for the request and shall be signed by the appropriate authority.

**10.15(3)** The administrator shall schedule a hearing within ten working days of receipt of the request for hearing. The administrator shall preside over the hearing at which time the appellant may present any evidence, documentation, or other information regarding the matter in dispute.

**10.15(4)** The administrator shall issue a ruling regarding the matter within 20 working days of the hearing. The ruling by the administrator shall be final.

These rules are intended to implement Iowa Code chapter 34A.

[Filed Emergency 9/3/98, effective 9/4/98]

[Published 9/23/98]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

**ARC 8350A**

**GENERAL SERVICES  
DEPARTMENT[401]**

**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 17A.3(1), 17A.5(2) and 18.4, the General Services Director hereby rescinds Chapter 10, “Inventory Guidelines for State of Iowa Personal and Real Property,” Iowa Administrative Code, and adopts a new Chapter 10 with the same title.

This amendment implements inventory guidelines for state personal and real property for use by state agencies.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 22, 1998, as **ARC 7962A**.

In compliance with Iowa Code section 88.5(1)“b,” a public hearing was scheduled for May 13, 1998. No comments were received.

The amendment is substantially similar to the Notice of Intended Action. A date was added to rule 401—10.1(7A).

Pursuant to Iowa Code section 17A.5(2)“b”(2), this amendment became effective upon filing on September 4, 1998. This amendment confers a benefit on the public by providing an effective and efficient mechanism for state agencies to use in maintaining fixed asset inventories.

This amendment is intended to implement Iowa Code section 7A.30.

This amendment became effective September 4, 1998.

The following amendment is adopted.

Rescind **401—Chapter 10** and adopt the following **new** chapter in lieu thereof:

**CHAPTER 10**

**INVENTORY GUIDELINES FOR STATE OF IOWA  
PERSONAL AND REAL PROPERTY**

**401—10.1(7A) Purpose.** The department of general services is responsible for establishing inventory guidelines for personal and real property owned by state departments. Beginning July 1, 1998, the accompanying rules are the minimum universal guidelines for personal property. Each state department may implement more restrictive guidelines to enhance accountability for physical assets.

**401—10.2(7A) Definitions.**

**10.2(1) Personal property.** For purposes of this chapter, personal property is any item or equipment that has an acquisition value of \$2000 or more and has an anticipated useful life of one year or more. Computer software is to be excluded from this definition.

**10.2(2) Accounting in aggregate.** Accounting in aggregate is the process of accounting for certain types of items in a lump sum rather than individually. Items accounted for in aggregate are added for the combined value with one entry to the fixed asset listing. Items that may be accounted for in aggregate are defined below:

a. One item that is made up of two or more component parts, or

b. Two or more like items whose individual values are less than \$2000, but combined value is \$2000 or more, or

c. Two or more like items whose individual values are \$2000 or greater, if the item does not fall under paragraph “a” above and it is not physically feasible to account for the items individually.

**10.2(3) Acquisition value—cost or estimated cost.** Cost or estimated cost may include freight, installation expense and administrative expense, if readily known and available. If cost is unknown and cannot be estimated, acquisition value is the fair market value. For donated items, acquisition value is the fair market value at date of donation.

**10.2(4) Department.** A department is any state agency or institution as identified in Iowa Code section 7A.30.

**401—10.3(7A) Accounting for items in aggregate.** Personal property may be accounted for in aggregate. Items accounted for in aggregate shall be tagged as follows:

## GENERAL SERVICES DEPARTMENT[401](cont'd)

1. If accounting in aggregate as defined in 10.2(2)"a" or 10.2(2)"c," one item or component of the item shall be tagged with a prenumbered tag and all other items or components marked with an unnumbered tag or other identifiable markings.

2. If accounting in aggregate as defined in 10.2(2)"b" or 10.2(2)"c," one item or component of the group may be tagged with a prenumbered tag and all other items or components marked with an unnumbered tag or other identifiable markings, or all components may be marked with an unnumbered tag or other identifiable markings.

To ensure proper accountability for these items, each department will prepare written policies and procedures for tracking and recording items accounted for in aggregate.

**401—10.4(7A) Physical inventory.** A physical inventory of personal property must be taken and the results reconciled with property records at least once every two years.

**401—10.5(7A) Inventory identification.** If feasible, all inventoried personal property should be identified as state of Iowa property with a prenumbered decal or the appropriate bar code tag or other identifiable mark.

**401—10.6(7A) Inventory listing.** Personal property should be accounted for on an inventory listing. As applicable, the following minimum information must be presented on the inventory listing for each record of personal property:

1. Department.
2. Tag number.
3. Description.
4. Acquisition value.
5. Location(s).
6. Acquisition date.
7. Disposition date (not applicable until disposal of property).

8. If the department depreciates personal property, the information will also include the depreciation method used, life expectancy and net book value.

Departments shall develop adequate internal control procedures that (1) identify individual(s) authorized to update and change the inventory records and (2) provide for an adequate segregation of duties between the recording and custody of property.

**401—10.7(7A) Capital leases.** Property acquired under capital lease provisions shall be accounted for on the inventory listing at the inception of the lease.

These rules are intended to implement Iowa Code section 7A.30.

[Filed Emergency After Notice 9/4/98, effective 9/4/98]  
[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

**ARC 8353A****LABOR SERVICES DIVISION[347]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 88.5, 17A.3(1) and 17A.5(2), the Labor Commissioner adopts an amendment to Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

The amendment relates to Office of Management and Budget control numbers under the Paperwork Reduction Act for miscellaneous general industry and construction industry rules and regulations, Office of Management and Budget control numbers under the Paperwork Reduction Act, and respiratory protection, correction.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 1998, as **ARC 8209A**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for August 20, 1998. No comments were received. This amendment is identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), this amendment shall become effective upon publication on September 23, 1998. The Commissioner finds that this amendment confers a benefit on employees by permitting them to be provided with safety and health equal those found in states under federal OSHA's jurisdiction and is necessary because of the safety and health of employees in this state.

This amendment is intended to implement Iowa Code section 88.5.

The amendment will become effective September 23, 1998.

The following amendment is adopted.

Amend rule **347—10.20(88)** by inserting at the end thereof:

- 63 Fed. Reg. 13339 (March 19, 1998)
- 63 Fed. Reg. 17093 (April 8, 1998)
- 63 Fed. Reg. 20098 (April 23, 1998)

[Filed Emergency After Notice 9/4/98, effective 9/23/98]  
[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

**ARC 8354A****LABOR SERVICES DIVISION[347]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The amendment relates to Office of Management and Budget control numbers under the Paperwork Reduction Act for miscellaneous general industry and construction industry rules and regulations, Office of Management and Budget control numbers under the Paperwork Reduction Act, and respiratory protection, correction.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 1998, as **ARC 8207A**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for August 20, 1998. No comments were received. This amendment is identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), this amendment shall become effective upon publication on September 23, 1998. The Commissioner finds that this amendment confers a benefit on employees by permitting them to be provided with safety and health equal those found in states under federal OSHA's jurisdiction and is necessary because of the safety and health of employees in this state.

## LABOR SERVICES DIVISION[347](cont'd)

This amendment is intended to implement Iowa Code section 88.5.

The amendment will become effective September 23, 1998.

The following amendment is adopted.

Amend rule 347—26.1(88) by inserting at the end thereof:

63 Fed. Reg. 13340 (March 19, 1998)

63 Fed. Reg. 17094 (April 8, 1998)

63 Fed. Reg. 20099 (April 23, 1998)

[Filed Emergency After Notice 9/4/98, effective 9/23/98]

[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

## ARC 8338A

## ARTS DIVISION[222]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 303.88(1), the Arts Division hereby amends Chapter 1, "Organization and Operation," and Chapter 2, "Operating and Granting Policies"; adopts Chapter 3, "Technical Assistance Program"; rescinds Chapter 4, "Project Support for Organizations," and adopts a new Chapter 4, "Access to the Arts Funding Program"; rescinds Chapter 5, "Minigrants"; amends Chapter 6, "Operational Support Grants to Major Arts Organizations"; rescinds Chapter 7, "Arts To Go Artist Roster," Chapter 8, "Arts To Go Presenter Program," Chapter 10, "Youth Arts Opportunities Residency Program," Chapter 11, "Artists in Schools/Communities Residency Roster," Chapter 12, "Artists in Schools/Communities Residency Program," Chapter 13, "Area Education Agencies," and Chapter 14, "Professional Development Residency Program"; amends Chapter 18, "Artist Directory," and Chapter 20, "Artsafe Program"; and rescinds Chapter 21, "Artist Project Grant Program," Chapter 24, "Artist Locator Program," and Chapter 25, "Operational Support Grants for Midsize Arts Organizations," Iowa Administrative Code.

These amendments implement changes to the operational policies and granting programs of the Arts Division, eliminate obsolete programs and services, and define new programs and services for support of the arts in Iowa. The changes were adopted in response to a major review and restructuring of the agency's mission and focus following extensive strategic planning and citizen involvement.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 1998, as ARC 8193A, and a public hearing was held on August 18, 1998. There were no attendees, and no oral or written comments were received regarding these amendments. The adopted amendments are identical to those published under Notice of Intended Action.

The Arts Division adopted these amendments on September 2, 1998.

These amendments will become effective on October 28, 1998.

These amendments are intended to implement Iowa Code section 303.88(1).

The following amendments are adopted.

ITEM 1. Amend rule 222—1.1(303) as follows:

Amend the introductory paragraph as follows:

**222—1.1(303) Definitions.** The definitions of terms listed in Iowa Code section 17A.2 shall apply for terms as they are used throughout Chapters 1 to 40 23. In addition, as used in Chapters 1 to 40 23, the following terms shall apply:

Amend the following definitions:

~~"Administrator" means the administrator of the arts division of the department of cultural affairs.~~

~~"Chair" means the Iowa arts council member appointed by the governor to preside over council business for the fiscal year.~~

~~"Council" means the Iowa arts council.~~

~~"Director" means director of the department of cultural affairs.~~

~~"Executive committee" means the six five members of the Iowa arts council, inclusive of the vice chair and chair, who are appointed annually by the chair and who may conduct the business of the council.~~

"Fiscal agent" means an organization which ~~that~~ meets the definition of applicant and which ~~that~~ administers grant funds for an organization which has not yet received its tax-exempt status. ~~The fiscal agent becomes the legal applicant of record, redistributes the funds to the intended receiver, and is responsible for all published requirements of the granting program, including contracts, revised budget forms, fiscal records and reports.~~

~~"Iowa arts council" means the 15 member advisory board of the arts division of the department of cultural affairs.~~

Adopt the following new definitions in alphabetical order:

"Curated resource" means a printed or electronically produced resource of the arts division in which a qualified individual or organization is contracted or appointed by the arts division to research and recommend candidates for inclusion in the resource.

"Juried resource" means a printed or electronically produced resource of the arts division in which applicants are reviewed and recommended for inclusion in the resource by an advisory panel appointed by the arts division.

ITEM 2. Amend rule 222—1.2(303) as follows:

**222—1.2(303) Purpose.** The council was created by Iowa Code section 303.86. The mission of the council is to ~~promote the value, practice and appreciation of the arts and to develop a climate in which they flourish~~ *advance the arts in Iowa for the benefit of all.*

ITEM 3. Amend rule 222—1.3(303) as follows:

**222—1.3(303) Administrator's duties Location.** ~~The administrator shall be appointed by and shall serve at the pleasure of the director.~~ The office of the administrator *Iowa arts council* is located at the State Historical Building, 600 East Locust Street, Des Moines, Iowa. The mailing address is Iowa Arts Council, State Capitol Complex, Des Moines, Iowa 50319. Regular office hours are 8 a.m. to 4:30 p.m., Monday through Friday, state holidays excepted. The telephone number is (515)281-4451. ~~The administrator shall perform duties as specified in Iowa Code sections 303.1(6) and 303.88.~~

ITEM 4. Amend rule 222—1.4(303) as follows:

**222—1.4(303) Council statement on freedom of expression.** The council adopts the following *mission* statement regarding freedom of expression: "The mission of the Iowa arts council is to ~~promote the value, practice and appreciation of the arts and to develop a climate in which they flourish~~ *advance the arts in Iowa for the benefit of all.* Support of free speech is the centerpiece of this mission. The council is an advocate for and defender of the right of free speech by all citizens under the First Amendment of the Constitution of the United States.

"The council recognizes the need for public support of the arts and understands the responsibilities that accompany the allocation of public funds. The council seeks the advice of qualified Iowans through the use of review panels for funding recommendations. The council is committed to uphold and maintain the highest artistic standards and to encourage excellence in the arts.

"The council respects the integrity of an artist's personal vision and right to freedom of expression. The council rejects all attempts to control or censor the arts. Recognizing the diversity of viewpoints represented by Iowa communities, the council supports freedom of choice and access to the arts by all citizens."

## ARTS DIVISION[222](cont'd)

ITEM 5. Amend rule 222—2.2(303) as follows:

**222—2.2(303) Operating policies.** The following operating policies shall apply to arts division programs and services except where noted:

~~2.2(1) The arts division is a division of the Iowa department of cultural affairs and shares its purpose of and assumes primary responsibility for development of a cultural climate within the state in which the arts may flourish.~~

~~2.2(2) The council, created as an advisory council by Iowa Code section 303.86, consists of 15 members, appointed by the governor from among the citizens of Iowa who are recognized for their knowledge, appreciation, or support of the arts and cultural heritage of Iowa. In making appointments, due consideration shall be given to the recommendations made by representative civic, educational, and professional associations, groups, and artists concerned with the arts in addition to recommendations submitted by the public at large.~~

~~2.2(3) Each member of the council serves a three-year term which begins on July 1. The governor shall appoint a chair and vice chair from the members of the council to serve at the pleasure of the governor. In the event of a vacancy, the seat shall be filled for the balance of the term in the same manner as the original appointments were made.~~

~~2.2(4) The primary responsibility of council members and arts division staff is to promote policies and viewpoints which benefit the arts throughout the state of Iowa. Council members and arts division staff are encouraged to combine an understanding of the artistic needs of their communities with the general sensitivity to the cultural aspirations of other communities, so that all shall be served without biases to any specific city, art form, or organizational interest.~~

~~2.2(5 1) Annually, the chair appoints an executive committee of six five members of the council, inclusive of the vice chair and chair. Between meetings, business may be conducted by the executive committee. A majority vote consists of four three of six five votes cast.~~

~~2.2(6 2) All assignments of duties of council members shall be made by the chair in consultation with the administrator. These services shall include, but not be limited to, the council executive committee (with the exception of the vice chair), standing committees, advisory panel, attendance on behalf of the agency at meetings, arts jurying functions, or any other responsibility where the function of the member may be construed as direct representation of the arts division. The arts division shall accept nominations from the general public of qualified individuals to serve in these capacities. Appointments are made for a term of one year unless otherwise specified at the time of the appointment.~~

~~2.2(7 3) Annually, the administrator, in consultation with the chair, appoints advisory panels to assist on in any aspect of arts division administration, programs, or services. The arts division shall accept nominations from the general public of qualified individuals to serve in these capacities. Appointments are made for a term of one year, unless otherwise specified at the time of the appointment.~~

~~2.2(8 4) Recommendations of advisory panels on any aspect of administration or programs constitute advice and shall not be binding on the council. In the case of grants, final awarding authority rests with the director or the director's designee.~~

~~2.2(9) Council business meetings are open to the public, subject to the Code of Iowa. Advisory panel sessions are not required to be open to the public, but are open as a voluntary rule of the arts division. All meetings open to the public shall be governed by Iowa's open meeting law guidelines.~~

~~2.2(10) All binding actions of the council are determined by a quorum of voting board members. A quorum shall be a simple majority of those members.~~

~~2.2(11) The public records of the arts division as defined by Iowa law are open for public inspection under the supervision of a staff member during regular business hours. Requests for copies of public records may include fees for materials and research at the discretion of the administrator.~~

~~2.2(12) Arts division staff members work under the direct authority and supervision of the administrator.~~

~~2.2(13) The administrator of the arts division is authorized to reimburse board members, staff members, advisors, panelists or contractors for travel and subsistence and other appropriate and reasonable expenses related to their assignments. Assignments shall be approved by the administrator to be eligible for reimbursement. Such reimbursements shall be subject to state law.~~

~~2.2(14 5) The arts division shall provide information on arts activities in Iowa to the general public through newsletters, news releases, brochures and other publications and, if deemed necessary by the arts division, may charge a fee for the dissemination of such information.~~

~~2.2(15) Individuals and organizations are eligible to request a copy of information contained in the arts division's HOBIE computer system, for projects of direct benefit to the development of the arts in Iowa. This data is intended to assist the arts division in improved and affirmative service to special constituencies.~~

~~2.2(16 6) Information shall be released under the condition that it shall not be sold, rereleased, or retained for purposes other than those specifically stated to and granted by the arts division. The arts division reserves the right to refuse requests for information which require data not contained in the National Standard for Art Information Exchange or for requests that require special hand tabulation.~~

~~2.2(17) The arts division retains a current printout of the HOBIE mailing list system which is available for public inspection at the arts division office during regular state office hours. Other date information, if available, requires requests in advance. Organizations or individuals requesting information may be charged for time and materials used in producing lists or reports. A list of fees for services is available from the arts division upon request. Failure to make prompt payment for such services may jeopardize future requests for information. Fees shall be as follows with a minimum charge of \$15:~~

~~a. Cheshire paper labels \$ .0075/entry.~~

~~b. Adhesive labels \$ .0175/entry.~~

~~c. Lists \$ .01/entry.~~

~~d. Merged/purged lists to eliminate duplicates \$ .003/entry.~~

~~e. Special requests \$15.00.~~

~~f. Requests for over two selection criteria \$5.00.~~

~~g. Postage and handling per order \$4.00.~~

~~h. Rush orders \$7.00.~~

~~2.2(18) Notification of application shall be given to the board for all grants initiated by staff to outside agencies.~~

~~2.2(19 7) Council members or staff shall not submit an application for arts division funds, or serve as artist in an arts division program or activity during their terms of service or employment. Iowa Code chapter 68B also bans any compensation for services rendered in those instances where the compensation results directly from participation on or with the council or arts division. This ban shall extend for a period of two years after the termination of services or employment.~~

## ARTS DIVISION[222](cont'd)

**2.2(20 8)** The arts division does not write or submit grant applications to other funding agencies for arts groups which, due to a lack of federal tax-exempt status or other qualifying characteristics, cannot apply to funding sources as coapplicant with other Iowa-based organizations.

ITEM 6. Amend rule 222—2.3(303) as follows:

**222—2.3(303) Program policies.** The following policies apply to all formerly adopted programs outlined in 222—Chapters 4-3 to 30-23 except where noted:

~~2.3(1) Under supervision of the administrator, the staff shall establish guidelines and standards for all arts division programs which shall include, but are not limited to: methodology of applications, methodology of fees, grant payment, matching requirements, all application, report and evaluation forms, and criteria standards for review of applications, required specializations and evaluation.~~

**2.3(2 1)** All arts division programs shall be conducted according to published guidelines which that outline the goals of the programs, eligibility requirements, review criteria, adjudication processes and recipient requirements.

**2.3(3 2)** All direct grant programs shall require formal application and review prior to the award or denial of any grant funds. The application, review, and award process will vary with the nature and design of each direct grant program.

**2.3(4 3)** Applicants to arts division granting programs shall be notified of the results of the grant application within 120 days following the advisory panel meeting.

**2.3(5 4)** The arts division shall support only those organizations which that are nonprofit and federally tax-exempt. An applicant's Internal Revenue Service tax determination letter and federal identification number shall be filed with the arts division prior to the review of any grant application.

~~2.3(6) Applicant organizations shall have been in active service to the Iowa public for at least one year prior to the date of application. The one-year requirement may be waived by the administrator.~~

**2.3(7 5)** Nonprofit organizations that have not yet achieved federal tax-exempt status may apply through a fiscal agent.

**2.3(8 6)** Tax-exempt, nonprofit organizations located in states bordering Iowa shall be eligible to apply to the arts division for projects which that serve Iowa audiences. Tax-exempt, nonprofit organizations located in bordering states are not eligible to apply to the arts division for general operating support.

**2.3(9 7)** Individuals applying for and receiving grant funds shall be legal residents of the United States, or be in the process of becoming legal residents as evidenced by certified documentation and be 18 years of age or older unless otherwise noted in program guidelines.

**2.3(10 8)** Artists applying to participate in arts division programs shall be subject to review. ~~Final with final approval authority rests resting with the administrator. Criteria and review procedures shall be established by each program.~~

~~2.3(11) Requirements for all individuals applying to qualify for arts division programs include excellence as an artist, experience in program area and sensitivity to the audience to be served. Applications are reviewed by panels, staff, and the administrator.~~

**2.3(12 9)** Preference in all arts division programs shall be given to Iowa artists. Each program shall establish its own procedures and criteria to give preference to Iowa artists.

**2.3(13 10)** Applications shall not be considered unless submitted on proper forms ~~standard arts division application forms~~ with support materials as required. ~~The standard~~

~~application form shall be used except where noted under program guidelines.~~

**2.3(14 11)** Applications submitted to the arts division shall be for projects which that occur during the period of July 1 through June 30. *Multiyear project applications submitted to the arts division shall operate on a multiyear funding cycle and shall be funded on a yearly basis subject to available funding.*

**2.3(15 12)** Applications shall be reviewed as received and deadlines shall be strictly enforced. Applications shall be postmarked or hand-delivered on or before the stated deadline date unless otherwise noted in program guidelines. An official U.S. Postal Service cancellation mark shall serve as the postmark date for deadline determinations. If the official deadline falls on a weekend or holiday, the first state working day after the published deadline becomes the official deadline. The use of facsimile machines to send applications an application is prohibited.

**2.3(16 13)** Arts division staff shall not be responsible for the correction or amendment of incomplete or erroneous applications after receipt in the arts division office.

~~2.3(17) For all granting programs designated as requiring matching funds, the grant awards shall not exceed one-half (50%) of the total project. In these instances, the grant recipient shall supply cash match at least equal to the amount of the grant.~~

~~2.3(18) The arts division shall reserve the right to question the financial need of applicants who fail to recognize the earned income and cash match potential of ticket sales or participant fees. Exceptions may include, but are not limited to: events which are difficult to ticket or against an applicant's board stated admissions policies, financial hardships for attendees, or promotional activities to develop new audiences.~~

**2.3(19 14)** The arts division shall issue a service contract for all grants awarded unless otherwise noted in program guidelines.

**2.3(20 15)** No portion of arts division or other department funds shall be used by recipients to meet the recipient's or applicant's obligation to match other arts division or department grants or programs.

~~2.3(21) The arts division strongly endorses the advisory panel review process and utilizes this process in programs that, through their intent and scope, warrant this review procedure.~~

**2.3(22 16)** Review criteria scores shall be the official written record of the proceedings of an advisory panel meeting. Arts division staff shall, upon request, provide applicants with a written record of these scores. Scores shall be maintained within HOBIE.

~~2.3(23 17) Advisory An advisory panel members member, or contractors contractor (in areas outside the contracting authority), shall not serve as spokesperson or an official representative of the arts division without written authorization from the administrator. Violations of this rule may result in the removal of the individual from the panel. This determination shall rest with the administrator in consultation with appropriate council members or arts division staff.~~

~~2.3(24) Advisory panel members who are not able to meet their obligations to panels for application review, meetings, to gather advice, or by taking on a reasonable share of on-site audits for evaluation, prescreening or qualitative review shall be relieved of further duty by the administrator. This determination shall rest with the administrator in consultation with appropriate council members or arts division staff.~~



## ARTS DIVISION[222](cont'd)

~~2.3(25 18)~~ Council members, staff members, and advisory panel members or contractors who have an affiliated interest affiliation in any grant application failing and who fail to absent themselves from all discussion and voting on such an application shall be recommended for resignation to the appointing authority. Affiliated interests shall be interpreted to include an employee, board or trustee relationship with the applicant, but and shall not be extended to include the spouse and dependent children of the participant council, advisory panel member or contractor.

~~2.3(26)~~ For all arts division programs that utilize the panel review process, a summary report shall be submitted to the council prior to meeting for their review and vote during their regular business session. The focus of the council review shall include:

a. Review criteria scores, advisory panel comments, evaluations or rankings;

b. Statewide geographic distribution of the program in review in relation to all arts division programs and projects; and

c. The availability of arts division funds.

2.3(27 19) The arts division shall place a strong emphasis on artistic quality in evaluating applications.

2.3(28 20) Programs supported to any extent by the arts division shall be open to the public.

2.3(29 21) The arts division shall not permit recipients to become dependent on the arts division for a majority portion of their operating budgets.

2.3(30 22) The arts division shall not consider applications for funding a previous year's deficit or for projects excluding that exclude the general public except where special guidelines are in effect.

2.3(31 23) College- or university-based projects shall demonstrate community participation in planning, implementation and evaluation. Projects for which college credit is given to participants are not eligible for funding from the arts division. Projects which that afford the college or university recruitment opportunities shall be considered a lower priority for funding.

2.3(32 24) Recipients of arts division grants shall not utilize funds for any lobbying purpose to influence any state or federal legislation or appropriations.

2.3(33 25) Unless otherwise contracted for in writing prior to surrender, any and all patents, copyrights, or other legal interest of relevance to programs or projects supported by the arts division shall be the sole and exclusive property of the artist or the artist's designee.

~~2.3(34)~~ Recipients shall comply with Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 and the National Fair Labor Standards Act.

2.3(35 26) Recipients of arts division grants shall credit the arts division in all promotion, publicity, advertising, and in any printed materials relating to the grants-supported projects with the following credit line or a reasonable facsimile: "This program is supported in part by the Iowa Arts Council." Noncompliance with this guideline shall jeopardize future funding of the recipient by the arts division.

~~2.3(36)~~ The arts division shall require a formal final report to be submitted by all grant recipients 30 days following the completion date of the project for which funds were awarded.

2.3(37 27) No arts division funds shall be released to any recipient until all final reports and contract-mandated requirements from previous awards are correctly submitted and approved by arts division staff. Recipients who fail to

return signed contracts or related materials within 60 days of the funding notification or June 30, whichever comes first, shall risk cancellation of the pledge of funds from the arts division.

2.3(38 28) Recipients of arts division support in any form who are shown to be delinquent regarding final reports for past financial awards, negligent concerning statements of facts necessary to attain and maintain arts division funds, or standard regarding compliance with contract-mandated guidelines, thereby rendering current or future arts division supported projects impractical, shall be placed on formal agencywide departmentwide funding moratorium by the administrator. The funding moratorium shall remain in effect until the necessary reports are submitted and approved, or until the recipient returns grant funds are returned to the arts division by the recipient.

~~2.3(39)~~ Grant recipients shall comply with all federal and state laws and regulations that relate to their grant. Arts division grantees receiving \$25,000 or more in federal funds shall submit an audit report in accordance with OMB circular A-110 and A-128 for the year in which arts division grant funds are received and spent.

2.3(40 29) To ensure that state and federal grants are spent in full compliance with all state and federal guidelines and requirements, the administrator shall formulate and maintain a system of periodic on-site audits (financial, managerial, artistic, and physical) of recipients of grants and program funds, and make reports concerning these audits to the appropriate authorities.

2.3(41 30) All arts division contracts not successfully completed by the recipient in terms of concept within arts division guidelines may be required to return all or part of the arts division funds, such determination to be made at the sole discretion of the administrator in consultation with arts division staff.

2.3(42 31) Extensions to the contracted period of all arts division grants and programs may be requested in writing, addressed to the administrator and may be approved at the administrator's sole discretion in consultation with arts division staff. Generally, agency funding shall not be extended beyond September 30. Extensions shall not be approved when the new project time line is eligible for support under the next program deadline. Projects that are eligible for the next program deadline shall be resubmitted by the applicant for reconsideration with the applicant adhering to all program guidelines then in effect.

2.3(43 32) Informal appeals. An informal appeals process shall be made available only to applicants whose applications were declined on procedural impropriety or error as evidenced by one or more of the following reasons:

a. Application declined on the basis of review criteria other than those appearing in the relevant guidelines; ;

b. Application declined based on influence of the advisory panel or council member(s) willfully or unwillfully failing to disclose conflicts of interest; ; and

c. Application declined based on highly erroneous information provided by staff, panelists, or council members at the time of review despite the fact that the applicant provided the arts division staff with accurate and complete information on regulation forms as part of the standard application process.

d. Incomplete or ineligible applications are specifically denied any appeals process. Substantially revised applications may be recognized as new applications, or may be declared ineligible if constraints of time preclude accurate information being made available to panelists. All requests for

ARTS DIVISION[222](cont'd)

appeals shall be made in writing and shall be postmarked or received in the arts division office within 30 calendar days of notification of the decision. A successful *informal* appeal shall be determined at the sole discretion of the administrator, whose ~~discretions~~ *discretion* may include full or partial funding of the aggrieved application which shall then be funded at the next earliest occasion.

d. The administrator shall have the authority to appoint an appeals committee to assist in the review of any request from applicants whose applications were denied funding. The appeals committee shall have representation from the discipline of the aggrieved.

2.3(-44- 33) Formal appeals. ~~Reserved.~~ *Decisions by the administrator may be appealed through the contested case process as set out in Iowa Code sections 17A.10 to 17A.19.*

ITEM 7. Adopt new 222—Chapter 3 as follows:

CHAPTER 3  
TECHNICAL ASSISTANCE PROGRAM

222—3.1(303) Technical assistance program. The technical assistance program provides assistance with the development and advancement of Iowa artists, nonprofit organizations and educators by emphasizing professional growth with guidance and financial support available.

222—3.2(303) Definitions. The definitions of terms listed in Iowa Code section 17A.2 and Iowa Administrative Code rule 222—1.1(303) shall apply for this chapter.

222—3.3(303) Eligibility requirements. The criteria used by the arts division to determine eligibility as outlined in 222—subrules 2.3(4) to 2.3(7) are adopted for this program.

222—3.4(303) Restrictions. The restrictions used by the arts division as outlined in 222—subrules 2.3(9) to 2.3(15) are adopted for this program.

222—3.5(303) Categories. The categories for assistance through the technical assistance program shall include:

3.5(1) Staff consultations. Arts division staff shall be available for consultations with constituents. Consultation fees shall not be charged. Travel and lodging expenses for the duration of the consultation shall be reimbursed to the arts division by the beneficiary of the consultation at current state government rates for reimbursement.

3.5(2) Peer advisory network. The peer advisory network assists in identifying and solving problems through the use of trained peer advisors.

a. Roster. The arts division shall maintain a roster of preapproved advisors on an annual basis. Application deadlines and review processes shall be announced annually.

b. Procedures. Clients shall request a peer advisory network service through a written letter of request to the arts division. Program funds shall be allocated on a first-come, first-served basis through the fiscal year.

c. Fees. Peer advisory network consultations shall be charged at a rate of \$100 per day. Advisors shall also be paid a \$75 fee for preparation and final report work with the client. The client shall be responsible for covering the costs of travel, meals and lodging of the consultants. Incidental expenses such as photocopying, postage, and telephone calls shall be reimbursed by the client.

d. Length of consultancy. The maximum time any one client may use the program in the fiscal year shall be three full days. Final determination of length of consultancy, frequency and funding rests with the arts division.

3.5(3) Professional development assistance. The arts division shall administer a granting program for support to eligible applicants to attend professional development opportunities.

a. Procedures. Eligible applicants shall submit a written letter of request for funding at least six weeks in advance of the event. A brochure outlining the details of the professional development opportunity shall be attached to the letter of request.

b. Funding. Funds shall be available on a first-come, first-served basis from the arts division. The arts division shall provide up to \$1,000 per successful recipient, but no more than 50 percent of the total cost of attendance.

3.5(4) Professional consultants. The arts division shall administer a granting program to support the hiring of professional arts consultants by eligible organizations.

a. Procedures. Eligible applicants shall submit a written letter of request for funding at least six weeks in advance of the consultation. The letter of request shall include a description of the need for the consultant, the consultant's name, and a summary of the costs.

b. Funding. Funds shall be available on a first-come, first-served basis from the arts division. The arts division shall provide up to \$1,000, but no more than 50 percent of the total cost of the consultation.

These rules are intended to implement Iowa Code section 303.88.

ITEM 8. Rescind 222—Chapter 4 and adopt the following new chapter in lieu thereof:

CHAPTER 4  
ACCESS TO THE ARTS FUNDING PROGRAM

222—4.1(303) Access to the arts funding program. The access to the arts funding program provides financial incentives for nonprofit organizations, artists, arts educators, area education agencies and schools for the development of exemplary arts activities.

222—4.2(303) Definitions. The definitions of terms listed in Iowa Code section 17A.2 and 222—Chapter 1 shall apply for terms as they are used throughout this chapter.

222—4.3(303) Eligibility requirements. The criteria used by the arts division to determine eligibility as outlined in 222—subrules 2.3(4) to 2.3(8) are adopted for this program.

222—4.4(303) Restrictions. The restrictions used by the arts division as outlined in 222—subrules 2.3(10) to 2.3(15) and 2.3(19) to 2.3(31) are adopted for this program with the following additions:

4.4(1) The access to the arts program shall not fund conservation of art works or projects that take place outside the state of Iowa.

4.4(2) The access to the arts program shall not permit grantees to become dependent upon it for continued funding of recurring projects. These projects shall be considered a lower priority after successive years of project support unless circumstances encourage continued financial assistance.

4.4(3) The access to the arts program shall not consider applications for capital improvement or construction projects, existing administrative salaries, purchase of permanent equipment, funding a previous year's deficit, tuition assistance for academic study, reception expenses, indirect costs, or projects that exclude the general public.

## ARTS DIVISION[222](cont'd)

**4.4(4)** The access to the arts program requires college- or university-based projects to feature community participation and outreach.

**222—4.5(303) Review criteria.** The advisory panel shall review applications to the access to the arts program based upon the following criteria:

**4.5(1)** Scope of project, including its exemplary qualities, qualifications, significance, and feasibility of completion—up to 20 points;

**4.5(2)** Partnerships of benefit evidenced by the applicant that impact the project, participants, or public—up to 20 points;

**4.5(3)** Preparation, evaluation, and follow-up activities or plans relating to the proposed project—up to 20 points;

**4.5(4)** Unserved or underserved populations benefiting from the proposed project—up to 20 points;

**4.5(5)** Community and family involvement in the proposed project—up to 20 points.

**222—4.6(303) Application procedures.** Applicants shall submit the official access to the arts application form as noted in 222—subrule 2.3(10). Applicants shall be limited to the submission of two funded projects per fiscal year, specific to the site or population served.

**222—4.7(303) Deadline.** Applications shall be due in the arts council offices at least three months in advance of the project start date.

**222—4.8(303) Review process.** Applications to the access to the arts program shall be reviewed on a quarterly basis, with specific dates to be published in the annual access to the arts guidelines available upon request from the arts division. Applications are reviewed by the appropriate advisory panel in accordance with 222—subrules 2.2(3), 2.2(4) and 2.3(15) to 2.3(23).

**222—4.9(303) Awards.** Awards shall be made in accordance with procedures outlined in 222—subrules 2.3(25) to 2.3(31).

**222—4.10(303) Notification.** Notification shall be made in accordance with procedures outlined in 222—subrule 2.3(3).

**222—4.11(303) Contract.** A contract shall be issued in accordance with procedures outlined in 222—subrule 2.3(14).

**222—4.12(303) Reporting.** All grantees shall submit a final report in accordance with procedures outlined in 222—subrules 2.3(27) to 2.3(31).

**222—4.13(303) Audit procedures and requirements.** The audit procedures and requirements for grantees as outlined in 222—subrule 2.3(29) shall be in effect for this program.

**222—4.14(303) Appeals.** Applicants who were denied funding may appeal the decision in accordance with procedures outlined in 222—subrules 2.3(32) and 2.3(33).

These rules are intended to implement Iowa Code section 303.88.

ITEM 9. Rescind and reserve 222—Chapter 5.

ITEM 10. Amend 222—Chapter 6 as follows:

## CHAPTER 6

OPERATIONAL SUPPORT GRANTS TO  
MAJOR AND MIDSIZE ARTS ORGANIZATIONS

**222—6.1(303) Operational support grants to major and midsize arts organizations.** The arts division awards a limited number of grants for unspecified operational support to arts organizations providing cultural and managerial excellence on a continuing basis.

**222—6.2(303)** No change.

**222—6.3(303) Eligibility.** Operational support grants to major and midsize arts organizations are ~~limited to intended~~ for arts organizations incorporated in Iowa and holding federal tax-exempt status. The program shall be limited to major arts organizations with established annual cash operating budgets of at least \$150,000 ~~\$250,000~~ and midsize arts organizations with established annual cash operating budgets of at least \$50,000 and no more than \$250,000. Applicants shall be arts organizations whereby exhibitions are organized, concerts are performed, productions are mounted or programs are sponsored by the applicant. Applicants shall operate year-round, have organized plans for artistic and economic stability, and shall not be an educational institution, or be connected to any educational institution. Student or youth organizations shall ~~not be eligible~~ be considered a lower priority for funding.

**222—6.4(303) Cash match requirements.** Applicants shall be required to demonstrate evidence of their ability to match the requested amount in cash. Cash match requirements shall be met automatically when an applicant's operating budget contains nonfederal and nondepartmental funds in excess of the grant award.

**222—6.5(303) Funding cycle.** The operational support grant program for major and midsize arts organizations shall operate on a two-year funding cycle. All applicants shall undergo a formal review process in year one of the funding cycle and shall be required to submit an interim program report in year two of the funding cycle.

**222—6.6(303) Restrictions.** Applicants shall be limited to the submission of one application to the access to the arts granting program of the arts division in the same fiscal years that they are applying for operational support.

**222—6.6 7(303) Formal application process.** Formal applications submitted in year one of the funding cycle shall be made on an official arts division operational support grant application form available at the arts division office. A letter of intent shall be due prior to year one of the funding cycle. ~~The deadline for this letter of intent in accordance with an annual deadline that shall be published in the program guidelines.~~ Applications shall be due in accordance with a deadline that shall be published in the program guidelines.

**222—6.7 8(303) Year two interim program report.** An interim program report shall be submitted to the arts division prior to year two of the funding cycle. The deadline for the submission of the interim program report shall be published in program guidelines. The interim program report shall be available upon request from the arts division office.

**222—6.8 9(303) Review criteria.** The following criteria shall be used by the advisory panel in year one of the funding cycle to review applications to the operational support grants to major and midsize arts organizations program:

**6.8 9(1)** Artistic—up to 35 points.

a. Development and support of Iowa artists.

b. Artistic growth.

c. Excellence of product or programs.

**6.8 9(2)** Management—up to 30 points.

## ARTS DIVISION[222](cont'd)

- a. Planning.
  - b. Evaluation.
  - c. Fund-raising.
- 6.8 9(3) Education/outreach—up to 15 points.**
- a. Audience and artistic educational opportunities.
  - b. Volunteer network development.
  - c. Involvement of community and schools.

**6.8 9(4) Accessibility—up to 20 points.** Service to special populations.

**222—6.9 10(303) Year one review process.** Formal applications submitted in year one of the funding cycle are reviewed by the appropriate advisory panel in accordance with 222—subrules 2.2(7 4) to 2.2(9) and subrules 2.3(21 16) to 2.3(26 23).

**222—6.10 11(303) Year two review process.** Interim program reports submitted during year two of the funding cycle are subject to approval by the administrator of the arts division in consultation with arts division staff.

**222—6.11 12(303) Awards.** Awards shall be made in accordance with the procedures outlined in 222—subrules 2.3(37 29) to 2.3(42 33). The grant award allocated to the applicant in year one of the funding cycle shall be maintained during year two except in the case of a significant shift in the arts division's annual state or federal appropriations.

**222—6.12 13(303) Notification.** Notification of operational support grants shall be made annually in accordance with procedures as outlined in 222—subrule 2.3(4 3).

**222—6.13 14(303) Contract.** A contract shall be issued annually to recipients of operational support grants as outlined in 222—subrule 2.3(19 14).

**222—6.14 15(303) Reporting.** All recipients shall submit a final report in year two of the funding cycle in accordance with procedures outlined in 222—subrule subrules 2.3(36 28) and 2.3(29).

**222—6.15 16(303) Appeals.** Applicants who were denied funding in the operational support grant program may file an appeal using procedures outlined in 222—subrules 2.3(43 32) and 2.3(44 33).

These rules are intended to implement Iowa Code section 303.88.

ITEM 11. Rescind and reserve Chapter 7, "Arts To Go Artist Roster," Chapter 8, "Arts To Go Presenter Program," Chapter 10, "Youth Arts Opportunities Residency Program," Chapter 11, "Artists in Schools/Communities Residency Roster," Chapter 12, "Artists in Schools/Communities Residency Program," Chapter 13, "Area Education Agencies," Chapter 14, "Professional Development Residency Program," Chapter 21, "Artist Project Grant Program," Chapter 24, "Artist Locator Program," and Chapter 25, "Operational Support Grants for Midsize Arts Organizations."

ITEM 12. Amend rule 222—18.2(303) as follows:

**222—18.2(303) Definitions.** The definitions listed in Iowa Code section 17A.2 and 222—Chapter 1 shall apply for terms as they are used throughout this chapter. In addition, the following definitions shall apply:

"Artist group or company" means an organized group of artists who regularly work together.

"Artist member of an artist group or company" means an individual artist who is a member of an artist group or company.

"Arts educator" means an artist who teaches the arts in grades kindergarten through 12 or at colleges or universities.

"Individual artist" means an artist who primarily works independently and not regularly with an artist group or company.

ITEM 13. Amend rule 222—18.3(303) as follows:

**222—18.3(303) Eligibility.** Applicants An applicant shall be, at the time of registration, 18 years of age or older, be a legal resident of the United States and the state of Iowa, and shall not be a student in the discipline in which they register the student registers.

ITEM 14. Amend subrule 18.4(2), paragraphs "b" and "c," as follows:

b. Exactly five 35mm slides of work that has been created, produced, presented, or proposed by the registrant; and two copies of each slide.

c. ~~Three copies~~ One copy of each video or audio cassette tape, compact disc, or publication submitted representing work that has been created, produced, presented, published, or proposed by the registrant.

ITEM 15. Amend rules 222—18.6(303) and 222—18.7(303) as follows:

**222—18.6(303) Registrant requirements.** Registrants shall be required to notify the arts division of any changes in the computer data of the artist directory, and verify or update computer data annually, and update registration forms and materials every two years when requested. Registrants not responding within 90 days after an update notice has been mailed shall have their materials removed from the resource and archived.

**222—18.7(303) Fees to be included in artist directory.** ~~The arts division shall charge a fee of \$10 to registrants who have submitted materials to the artist library. All fees related to the artist directory shall be published in the registration materials.~~ Registrants shall be informed of any proposed fees the arts division may charge registrants at least 90 days prior to the date the fees are imposed in order to allow the registrant time to be removed from the resource.

ITEM 16. Amend rules 222—20.4(304A), 222—20.11(304A), 222—20.12(304A) and 222—20.15(304A) as follows:

**222—20.4(304A) Organizational eligibility.** Eligible organizations shall be those as outlined in 222—subrules 2.3(5 1) to 2.3(8 9).

**222—20.11(304A) Review process.** Review procedures as outlined in 222—subrules 2.2(7 3), to 2.2(9 4) and subrules 2.3(21 1) to 2.3(26 15) shall be used for the artsafe program. In addition, the administrator, in consultation with the department of general services, shall consult with an advisory panel in reviewing the qualifications of the applicant, items, and value of the items in the exhibit. Panel recommendations shall be reviewed by the council and the department of general services. Final decisions are made by the administrator, after approval of the council and the department of general services.

**222—20.12(304A) Indemnity notification.** Notification shall be made in accordance with procedures as outlined in 222—subrule 2.3(4 3).

ARTS DIVISION[222](cont'd)

222—20.15(304A) Final report. All indemnity recipients shall submit a final report in accordance with procedures as outlined in 222—subrule 2.3(36 28).

[Filed 9/2/98, effective 10/28/98]
[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

ARC 8339A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 225C.6 and 1998 Iowa Acts, House File 2545, section 8, subsection 2, paragraph "c," and section 9, the Department of Human Services hereby amends Chapter 25, "Disabilities Services Management," appearing in the Iowa Administrative Code.

The Seventy-seventh General Assembly in 1998 Iowa Acts, House File 2545, appropriated allowable growth funds for county mental health, mental retardation, and developmental disabilities services funds. The total amount appropriated, \$18.1 million, amounts to funds previously appropriated plus the 2.48 percent allowable growth factor recommended in the Governor's budget. House File 2545 appropriates funds to each of four priority areas as follows: Growth - \$12 million, Per Capita Expenditure Target Pool - \$2.1 million, Risk Pool - \$2 million, and the Incentive and Efficiency Pool - \$2 million.

These amendments establish requirements for counties to receive funding from the Incentive and Efficiency Pool created by the Seventy-seventh General Assembly in 1998 Iowa Acts, House File 2545, section 8. To be eligible for these funds, a county must collect and report performance measure data in the desired results areas of Equity of Access, Community-Based Supports, Consumer Participation, and Administration; select five performance indicators, three from at least two of four desired results areas and two indicators from either the desired results areas or indicators proposed by the counties; and propose a percentage change for each of the five selected indicators.

The State County Management Committee shall review all proposals and decide whether to accept or reject the proposals or request modifications. The Department of Human Services shall analyze each county's reports to determine the extent to which the county achieved the levels contained in the proposal accepted by the State County Management Committee. The amount actually paid to a county shall be the product of the county's percentage score on the five selected performance indicators and the county's maximum amount, which is the county's percentage share of the state's general population applied to the amount available for distribution from the pool.

These amendments contain a phase-in provision for the first two years. A county which collects and reports all required data by December 1, 1999, shall be deemed to have received a 100 percent score on the county's performance indicators and be eligible for the full payment in January of 2000. A county which submits a proposal for improvement with its management plan for the fiscal year which begins July 1, 1999, and reports the levels achieved on the selected performance measures by December 1, 2000, shall be

deemed to have received a 100 percent score on the county's performance indicators, regardless of the actual levels achieved, and be eligible for the full payment in January of 2001.

These amendments were developed by a work group from the State County Management Committee and recommended by the State County Management Committee for adoption by the Mental Health and Developmental Disabilities Commission as required by the General Assembly in 1998 Iowa Acts, House File 2545, section 8, subsection 2, paragraph "c."

These amendments were previously Adopted and Filed Emergency and published in the July 15, 1998, Iowa Administrative Bulletin as ARC 8149A. Notice of Intended Action to solicit comments on that submission was published in the July 15, 1998, Iowa Administrative Bulletin as ARC 8148A.

The Mental Health and Developmental Disabilities Commission adopted these amendments September 1, 1998.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement 1998 Iowa Acts, House File 2545, section 8, subsection 2.

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 25 preamble; 25.42 to 25.55] is being omitted. These rules are identical to those published under Notice as ARC 8148A, IAB 7/15/98.

[Filed 9/3/98, effective 11/1/98]
[Published 9/23/98]

[For replacement pages for IAC, see IAC Supplement 9/23/98.]

ARC 8345A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

Adopted and Filed

Pursuant to the authority of Iowa Code section 155.9, the Board of Examiners for Nursing Home Administrators hereby amends Chapter 141, "Licensure of Nursing Home Administrators," Iowa Administrative Code.

These amendments provide for the approval of graduates of college or university programs that are approved by the National Association of Boards of Licensure of Long Term Care Administrators (NAB) as meeting the educational qualifications for licensure, provide a new exception to the minimum education requirements for an individual who is certified as an administrator in good standing with the American College of Health Care Administrators (ACHCA), limit the period of appointment as a provisional administrator to no more than six months, establish circumstances under which approval may be granted for a provisional administrator, and establish the Board's right to withdraw approval of a provisional appointment.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 15, 1998, as **ARC 8156A**. A public hearing was held on August 10, 1998, from 1 to 4 p.m. on the Iowa Communications Network (ICN), originating from the ICN Classroom, Third Floor East, Room 326, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa. There were no written or oral comments received in response to the noticed amendments.

These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Board of Examiners for Nursing Home Administrators at a Board meeting on August 27, 1998.

These amendments will become effective October 28, 1998.

These amendments are intended to implement Iowa Code chapters 155 and 272C.

The following amendments are adopted.

ITEM 1. Amend subrule **141.3(2)**, paragraph "a," as follows:

a. Each applicant must establish to the satisfaction of the board successful completion of a baccalaureate or postbaccalaureate degree in health care administration and approved by the board, from a college or university currently accredited by *one of the following*: a regional accrediting agency or, *an organization affiliated with the National Commission on Accrediting (Council of Post-secondary Accreditation), and or the National Association of Boards of Examiners of Long Term Care Administrators.*

ITEM 2. Amend subrule **141.3(2)**, paragraph "b," as follows:

b. ~~If not obtained as part of~~ *In lieu of* 141.3(2)"a," a minimum of:

(1) A baccalaureate degree from a college or university currently accredited by a regional accrediting agency or organization affiliated with the National Commission on Accrediting (Council of Post-secondary Accreditation); and

(2) 10 semester hours of business management, accounting or business law or any combination thereof; and

(3) 6 semester hours of gerontology; *and*

(4) 12 semester hours in health care administration including but not limited to the areas of organizational management, regulatory management, personnel management, resident care management, environmental services, management, and financial management; *and*

(5) 12 semester hours of long-term health care practicum (720 clock hours). There are nine areas of practicum requiring 80 clock hours each: social services; dietary; legal aspects and government organizations; nursing; environmental services; activities/community resources; business administration; administrative organization; human resource management. Substitution of one year of long-term health care administration experience supervised by a licensed administrator may be allowed at the discretion of the board.

ITEM 3. Amend subrule 141.3(3) as follows:

**141.3(3)** Exceptions to minimum education requirements. Any individual holding ~~a valid Iowa license as a nursing home administrator as of January 1, 1999,~~ *one of the following* is deemed to meet the requirements of this rule. :

a. *A valid Iowa license as a nursing home administrator as of January 1, 1999, or*

b. *Certification as an administrator in good standing with the American College of Health Care Administrators.*

ITEM 4. Rescind rule 645—141.7(155) and adopt the following new rule in lieu thereof:

**645—141.7(155) Provisional license.** Effective January 1, 1999, under certain limited circumstances, and only upon the filing of an application requesting approval, a provisional administrator may be appointed to serve as the administrator of a nursing home. A provisional administrator is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed six months. The six-month appointment runs from the date approved by the board, and the months in service do not need to be consecutive. The person serving as a provisional administrator shall not be permitted to serve more than a total of six months.

**141.7(1)** The limited circumstances under which the request for a provisional appointment shall be granted include the inability of the licensed administrator to perform the administrator's duties, the death of the licensed administrator or circumstances which prevent the immediate transfer of the licensed administrator's duties to another licensed administrator.

**141.7(2)** Applications for a provisional appointment shall be in writing on a form prescribed by the board. Persons applying shall meet the following minimum qualifications:

a. Be at least 18 years of age.

b. Be employed on a full-time basis of no less than 32 hours per week to perform the duties of the nursing home administrator.

c. Be knowledgeable of the nursing home administrators' domains of practice including resident care management, personnel management, financial management, environmental management, regulatory management and organizational management.

d. Be without history of unprofessional conduct or denial or disciplinary action against a license to practice nursing home administration or any other profession by any lawful licensing authority for reasons outlined in 141.12(147, 155, 272C).

**141.7(3)** The board expressly reserves the right to withdraw approval of a provisional appointment. Withdrawal of approval shall be based on information or circumstances warranting such action.

[Filed 9/4/98, effective 10/28/98]

[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

**ARC 8346A**

**PROFESSIONAL LICENSURE  
DIVISION[645]**

BOARD OF PODIATRY EXAMINERS

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry Examiners hereby amends Chapter 220, "Podiatry Examiners," Iowa Administrative Code.

This proposed amendment changes the requirements for continuing education standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 15, 1998, as **ARC 8154A**. A public hearing was held on August 4, 1998, from 12 noon to

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

2 p.m. in the Fourth Floor Conference Room, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Written comment was received from the Iowa Podiatric Medical Society. The following revisions were made to the Notice:

In 220.102(2)"b," the maximum number of hours of continuing education credit per biennium for viewing videotaped presentations was changed from "20" to "ten."

In 220.102(2)"c," the maximum number of hours of continuing education credit per biennium for computer-assisted instructional courses or programs was changed from "20" to "ten." Except for these changes, the adopted amendment is identical to that of the Notice of Intended Action.

This amendment was adopted by the Board of Podiatry Examiners on August 28, 1998.

This amendment will become effective October 28, 1998.

This amendment is intended to implement Iowa Code section 147.76 and chapters 149 and 272C.

The following amendment is adopted.

Rescind rule 645—220.102(272C) and insert the following new rule in lieu thereof:

645—220.102(272C) Standards for approval.

220.102(1) Continuing education is that education which is obtained by a licensee in order to maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit.

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

b. It pertains to common subjects or other subject matters which integrally relate to the practice of podiatry, such as scientific-oriented material or risk management. No office management courses will be accepted by the board of podiatry examiners; and

c. It is conducted by individuals who have a special education, training and experience by reason of which said individuals would be considered experts concerning the subject matter of the program and is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program. Continuing medical education credits will not be awarded unless the physician is in physical attendance; and

d. It fulfills stated program goals or objectives, or both; and

e. It provides proof of attendance to include the following:

- (1) Date, place, course title, presenter(s).
- (2) Number of program contact hours.
- (3) Official signature of program sponsor.

220.102(2) Continuing education credit may be granted for the following:

a. An educational activity in which participants and faculty are present at the same time and attendance can be verified. Such activities include lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences.

b. A maximum of ten hours of credit per biennium will be given for viewing videotaped presentations if the following criteria are met:

- (1) There is an approved sponsoring group or agency.
- (2) There is a facilitator or program official present.
- (3) The program official shall not be the only attendee.
- (4) The program meets all the criteria of 220.102(1).

c. Computer-assisted instructional courses or programs pertaining to patient care and the practice of podiatric medicine and surgery will be considered for a maximum of ten hours of credit per biennium. These courses and programs must be approved by the American Podiatric Medical Association or its affiliates and have a certificate of completion that includes the following information:

- (1) Date course/program was completed.
- (2) Title of course/program.
- (3) Number of course/program contact hours.
- (4) Official signature of course/program sponsor.

[Filed 9/4/98, effective 10/28/98]

[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

ARC §330A

TRANSPORTATION  
DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on August 25, 1998, adopted Chapter 132, "Iowa Scenic Byway Program," Iowa Administrative Code.

Notice of Intended Action for these rules was published in the July 1, 1998, Iowa Administrative Bulletin as ARC §128A.

The purpose of the Iowa scenic byway program is to designate qualifying Iowa roads as scenic byways. Under the program, proposed routes are identified via an application process. An application must be supported by each city and county through which a route passes. The Department inventories and evaluates the proposed routes. The advisory council selects the routes to be designated. The Department designates the routes as scenic byways and provides identifying signs.

These rules are identical to the ones published under Notice of Intended Action.

These rules are intended to implement Iowa Code chapter 306D.

These rules will become effective October 28, 1998.

Rule-making action:

Adopt the following new 761—Chapter 132:

CHAPTER 132

IOWA SCENIC BYWAY PROGRAM

761—132.1(306D) Purpose, overview and information.

132.1(1) Purpose. The purpose of the Iowa scenic byway program is to designate qualifying Iowa roads as scenic byways.

132.1(2) Overview. Under the Iowa scenic byway program, proposed routes are identified via an application process. The department inventories and evaluates the proposed routes. The advisory council selects the routes to be designated. The department designates the routes as scenic byways and provides identifying signs.

132.1(3) Information and forms. Information, instructions and application forms may be obtained from the Office

## TRANSPORTATION DEPARTMENT[761](cont'd)

of Project Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

**761—132.2(306D) Definition.**

"Advisory council" means the scenic byway advisory council. This group is responsible for selecting routes for scenic byway designation. It is comprised of representatives from the department of transportation, the department of economic development, the department of cultural affairs, and the department of natural resources.

**761—132.3(306D) Designations.**

**132.3(1)** A scenic byway shall have one of the following three designations:

- a. Naturally scenic. This is a route that has naturally scenic features along its length.
- b. Scenic and heritage. This is a route that has a combination of naturally scenic features and heritage features along its length.
- c. Heritage. This is either a route that has historic significance or one that connects areas or sites of historic significance along its length.

**132.3(2)** Reserved.

**761—132.4(306D) General requirements.**

**132.4(1)** Primary roads, secondary roads and city streets are eligible for designation as scenic byways.

**132.4(2)** A scenic byway should be continuous and at least 20 miles in length. Scenic or heritage features in one form or another should exist along the entire route.

**132.4(3)** Each city and county through which a route passes must approve the scenic byway designation.

**132.4(4)** Signs designating scenic byways shall be paid for and furnished by the department. Each roadway jurisdiction is responsible for installing scenic byway signs on roads under its jurisdiction in accordance with a signing plan provided by the department.

**761—132.5(306D) Application and approval process.**

**132.5(1)** Application. Application to designate a route as a scenic byway shall be on a form provided by the department and shall be submitted to the office of project planning. The application must be accompanied by a document indicating approval of the designation from the city council of each city and the board of supervisors of each county through which the route passes.

**132.5(2)** Deadline for submission. The deadline for submission of applications is October 1 every other year. However, the first deadline is November 1, 1998. This is the beginning of a program cycle. Applications shall be submitted to the office of project planning.

**132.5(3)** Initial review. Applications shall be reviewed by the advisory council to acquaint the council members with the proposed routes, to allow the members time to provide any information from their areas of expertise regarding the routes, and to provide guidance to the program.

**132.5(4)** Field inventory. In the spring, summer and fall following the application deadline, the department shall conduct a field inventory of proposed routes. The department shall collect the following information for each proposed route:

- a. Types of views along the route, including panoramas, scenes and focal points. Several elements or items related to material or color are also pinpointed.
- b. Quality of the various views along the route, from outstanding to poor or distracting.
- c. How long one sees a particular view or element.

d. Relative ease of seeing the various views and elements as the road is driven.

e. Visual character of the roadway alignment.

f. Types of scenic areas or historic sites along the route.

g. Variety of views as the route is driven.

**132.5(5)** Rating and evaluation. In the fall or winter of the second year of the program cycle, the department shall compile the inventory data, develop an overall rating for each proposed route, and prepare a written evaluation of each proposed route. The potential rating for a particular route ranges from "excellent" to "very poor." The midpoint is "average."

**132.5(6)** Selection. The advisory council shall review the ratings and evaluations and select the routes to be designated based on this information and any other information the council may have obtained regarding the routes. To be selected, a route must have a rating that is above "average."

**132.5(7)** Designation and signing. In the spring or early summer of the second year of the program cycle, the department shall designate the selected routes as scenic byways and provide scenic byway signs.

**761—132.6(306D) Reevaluation.** Every four years from the date of designation, the department shall inventory and evaluate the scenic byway to determine its continued eligibility in the program. The department reserves the right to remove a route from the scenic byway program if the route no longer meets the designating criteria.

**761—132.7(306D) Promotional and tourism efforts.** The department is not responsible for promotional and tourism efforts for scenic byways.

These rules are intended to implement Iowa Code chapter 306D.

[Filed 8/26/98, effective 10/28/98]

[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

**ARC 8356A**

## **WORKERS' COMPENSATION DIVISION[876]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 1, "Purpose and Function," Chapter 2, "General Provisions," Chapter 3, "Forms," Chapter 6, "Settlements and Commutations," and adopts Chapter 11, "Electronic Data Interchange (EDI)," Iowa Administrative Code.

Item 1 updates the Division of Workers' Compensation's telephone number.

Items 2 and 8 provide the procedure and requirements for filing reports electronically.

Item 3 updates form numbers.

Items 4, 5, 6 and 7 provide for the manner of discounting commutations of workers' compensation benefits to present value and make appropriate conforming language amendments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 1998, as **ARC 8189A**. Written comments were solicited until August 18, 1998. Written comments were received on current Item 6, subrule



## WORKERS' COMPENSATION DIVISION[876](cont'd)

6.3(2), Discount. Pursuant to those comments, the subrule has been modified. Written comments were also received on Items 2 and 6 of the Notice. Item 1 has been added to those Items contained in the Notice of Intended Action. Current Item 3 was modified and Items 4 and 7 were added to reflect the name of the forms used for petitions for commutations. The remaining Items have been renumbered accordingly. Except for these changes, the adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective October 28, 1998.

These amendments are intended to implement Iowa Code sections 17A.3(1)"a" and "b," 84A.2, 85.45, 85.47, and 86.8 and section 86.11 as amended by 1998 Iowa Acts, House File 2465.

The following amendments are adopted.

ITEM 1. Amend rule 876—1.2(86,17A) to read as follows:

**876—1.2(86,17A) Location.** Interested persons may contact the Iowa Workers' Compensation Commissioner, 1000 East Grand Avenue, Des Moines, Iowa 50319; telephone (515)242-6070 281-5387 or 1-800-Job-Iowa (1-800-562-4692). The fax number is (515)281-6501.

ITEM 2. Rescind and reserve rule **876—2.5(85,85A, 85B,86,87).**

ITEM 3. Amend rule 876—3.1(17A) as follows:  
Amend the following subrules:

**3.1(1) Form No. 1—first report of injury.** (Form No. 14-5012 14-0001) The form contains general information concerning the employee, the employer and the claimed injury. It is to be filed whether or not an adjudication or admission of the injury exists and is to be filed as provided in Iowa Code section 86.11.

**3.1(2) Form No. 2—claim activity report.** (Form No. 309-5007 14-9998) Upon establishment of a claim with this agency, the workers' compensation commissioner may provide to the insurer this form which will show basic claim data found in the agency files. The form provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying compensability, agreeing to rate and agreeing to make payments under the Workers' Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within 30 days of the first payment. When liability on a claim is denied, a letter shall be sent to claimant stating reasons for denial. This form shall also be filed when compensation is terminated or significantly interrupted. Medical data supporting the action taken shall be attached when temporary total disability or temporary partial disability exceeds 13 weeks or when the employee sustains a permanent disability. In the event this form is rejected by the agency, a refiling should be made within 15 days of the date of rejection.

**3.1(3) Form No. 2A—claim activity report.** (Form No. 14-5014 14-0003) This form is to be used by the insurer as the initiating party when a Form 2 is not available.

**3.1(4) Form No. 2B—supplemental information report.** (Form No. 309-5011 14-9999) This form should be filed by the employer or insurer whenever a discrepancy with regard to wages, exemptions or benefit rates exists; in death cases with a listing of dependents; or within the 15 days when requested by the workers' compensation commissioner. The form may also be attached to a Form 2A to show calculation used for determining rate. In the event this form is rejected

by the agency, a refiling should be made within 15 days of the date of rejection.

**3.1(5) Form No. 12—waiver on account of physical defect.** (Form No. 309-5027 14-0029) This form should be used for waiver on account of physical defect as provided by Iowa Code section 85.55. The physical defect shall be fully and adequately described in the space indicated. The nature of the work the subject individual is able to perform shall be fully and adequately described in the space indicated.

Waiver of physical defect shall not be approved for physical defects arising out of and in the course of an employee's employment with the employer attempting to secure such waiver.

**3.1(7) Form—original notice and petition.** The following forms are types of original notice and petition: original notice and petition—Form 100 (Form No. 309-5048 14-0005); original notice, petition, answer and order concerning independent medical examination—Form 100A (Form No. 14-5047 14-0007); original notice, petition, answer and order concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-5033 14-0009); original notice, petition, and answer concerning application for alternate medical care—Form 100C (Form No. 14-5159 14-0011); application original notice and petition for full commutation of all remaining benefits of ten weeks or more 876 IAC 6.2(6)—Form 9 (Form No. 309-5019 14-0013); checklist for full commutation (Form No. 309-5019A 14-0015); application original notice and petition and order for partial commutation—Form 9A (Form No. 309-5049 14-0017); and checklist for partial commutation (Form No. 309-5049A 14-0019). See rule 876—4.6(85,86,17A) for further descriptions.

**3.1(8) Form No. 15—subpoena.** (Form No. 309-5063 14-0035) This form is the witness subpoena which is used to require a witness to appear and testify. Form No. 309-5058 14-0033 is the Subpoena Duces Tecum which is used to require a witness to appear and to bring specified books and records.

**3.1(9) Form—corporate officer exclusion.** (Form No. 309-5010 14-0061) This form is the corporate officer exclusion which is used for corporate officers to reject workers' compensation or employers' liability.

**3.1(10) Form—attorney lien.** (Form No. 309-5143A 14-0039) This form is the request for allowance of attorney lien which is used to request that an attorney's lien on a claimant's weekly benefits be approved.

**3.1(11) Form—application and consent order for payment of benefits.** (Form No. 309-5089 14-0037) This form is the application and consent order for payment of benefits under Iowa Code section 85.21 which is used by an employer or an insurance carrier to pay weekly and medical benefits without admitting liability and to be able to seek reimbursement from another carrier or employer.

**3.1(13) Form—dispute resolution conference report.** (Form No. 309-5145 14-0041) This form is the dispute resolution conference report which is used to provide information for a dispute resolution pursuant to rule 876—4.40(73GA,ch1261).

**3.1(14) Form—forms order blank.** (Form No. 309-5052 14-0031) This form is the forms order blank which is used to order other forms used by the agency.

**3.1(15) Form—agreement for settlement.** (Form No. 309-5171 14-0021) This form may be used to file an agreement for settlement pursuant to Iowa Code section 86.13. There is also a form for a checklist for the completion of the agreement for settlement. (Form No. 309-5171A 14-0023)

## WORKERS' COMPENSATION DIVISION[876](cont'd)

3.1(16) Form—contested case settlement. (Form No. 309-5172 14-0025) This form may be used to file a contested case settlement pursuant to Iowa Code section 85.35. There is also a form for a checklist for the completion of the contested case settlement. (Form 309-5172A 14-0027)

3.1(17) Form—~~patient waiver authorization for release of information regarding claimants seeking workers' compensation benefits.~~ (Form No. 309-5173 14-0043) This form is used for the release of information concerning an employee's physical or mental condition relative to a workers' compensation claim.

ITEM 4. Amend subrule 6.2(9) to read as follows:

6.2(9) Unless otherwise ordered by the workers' compensation commissioner or deputy workers' compensation commissioner, an ~~application~~ *original notice and petition* for approval of commutation or partial commutation shall not be accepted for filing if accompanied by documentation in excess of 20 pages. An order approving an ~~application~~ *original notice and petition* accompanied by documentary evidence in excess of 20 pages is nevertheless valid, and is neither void nor voidable.

ITEM 5. Amend rule 876—6.3(85,86), introductory paragraph, to read as follows:

876—6.3(85,86) ~~Commutation tables.~~ The following tables are to be used in determining the sum to be paid in appropriate commutation proceedings. Nothing in this rule is to prevent waiver of the discount in ~~table~~ *subrule 6.3(2)* by the employer or insurance carrier.

ITEM 6. Rescind subrule 6.3(2) and adopt the following ~~new~~ subrule in lieu thereof:

6.3(2) ~~Discount.~~ When an original notice and petition for commutation of remaining future weekly benefits, either full or partial, is filed, the remaining future weekly benefits may be commuted to present dollar value. If the remaining future weekly benefits are converted to a present dollar value, the present dollar value shall be determined as provided in this subrule. A discount will be used to convert the value of remaining future weekly benefits to present dollar value. The discount will be based on a compound interest rate calculated pursuant to Iowa Code section 668.13(3) and in effect on the date informal agreement between the parties is reached for commutation and the number of weeks of remaining future benefits. The interest rate used to determine the discount shall be specified on the original notice and petition for commutation filed for approval by the commissioner.

ITEM 7. Amend subrules 6.4(1) and 6.4(2) as follows:

6.4(1) Form No. 9—~~application~~ *original notice and petition and order for commutation of all remaining benefits of ten weeks or more 876 IAC 6.2(6)*. This form contains data relevant to benefits paid and those to be paid by commutation when all unaccrued benefits are due. Signatures of the parties are necessary. Approval by the workers' compensation commissioner or a deputy commissioner is necessary. The form contains language of release.

6.4(2) Form No. 9A—~~application~~ *original notice and petition and order for partial commutation*. This form contains the same data and requirements as Form No. 9. However, all remaining benefits are not commuted. No language of release is contained.

ITEM 8. Adopt the following ~~new~~ chapter:

CHAPTER 11  
ELECTRONIC DATA INTERCHANGE (EDI)

876—11.1(85,86) ~~Purpose.~~ The purpose of this chapter is to establish the procedure for fulfilling reporting requirements of the division of workers' compensation.

876—11.2(85,86) ~~Definitions.~~ The following definitions apply to this chapter.

"EDI" means electronic transmission or reception, or both, of data through a telecommunications process utilizing a value-added network or the Internet as set forth in the EDI partnering agreement.

"EDI partnering agreement" means the written agreement between an entity and the division of workers' compensation specifying the terms and manner of reporting by EDI.

"Implementation plan" means the written document prepared by a reporter specifying a timetable for reporting by EDI.

"Report" means a first report of injury or a subsequent claim activity report, or both.

"Reporter" means the person who is responsible for reporting to the division of workers' compensation pursuant to the Iowa workers' compensation laws and includes an employer, an employer who has been relieved from insurance pursuant to Iowa Code section 87.11, and an insurance carrier which provides an employer workers' compensation insurance.

"Reporting" means submission of claims data and data fields of information of a report.

876—11.3(85,86) ~~Form of reporting.~~ The format of EDI reporting must be the current version of the International Association of Industrial Accident Boards and Commissions Release 2 FROI/SROI. A licensing agreement for use of the current version of the International Association of Industrial Accident Boards and Commissions Release 2 FROI/SROI may be purchased from the International Association of Industrial Accident Boards and Commissions, 1201 Wakarusa Drive, C-3, Lawrence, KS 66049; telephone (785)840-9103; www.iaabc.org; E-mail workcomp@iaabc.org.

876—11.4(85,86) ~~Manner of reporting.~~ The manner of EDI reporting is electronic.

876—11.5(85,86) ~~Voluntary reporting deadline.~~ All reporters must either sign an EDI partnering agreement or submit an implementation plan by December 1, 1999. The division of workers' compensation must approve implementation plans.

The implementation plans must be approved before January 1, 2000.

876—11.6(85,86) ~~Mandatory reporting deadline.~~ All reporters must sign a partnering agreement and begin reporting by EDI no later than July 1, 2001. Reporting by any means other than EDI after July 1, 2001, will not be acceptable. Reporters are responsible for reporting by EDI. A reporter may contract with another entity for reporting but the reporter is ultimately responsible for reporting. Any entity reporting on behalf of a reporter must also sign an EDI partnering agreement.

These rules are intended to implement Iowa Code sections 85.26, 86.8, 86.11 and 86.13.

[Filed 9/4/98, effective 10/28/98]

[Published 9/23/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/98.

AGENCY	RULE	DELAY
Racing and Gaming Commission[491]	1.6(4) [IAB 8/12/98, ARC 8231A]	Effective date of September 16, 1998, delayed until end of the 1999 General Assembly by the Administrative Rules Review Committee at its meeting held September 8, 1998. [Pursuant to §17A.8(9)]

#### **DEPARTMENT OF HUMAN SERVICES[441]**

At its July, 1998, meeting the Administrative Rules Review Committee voted to object to rule 441 IAC 175.21, appearing as part of **ARC 7975A** on the grounds that the definition of harm is unreasonable. The definition states: "Harm' means an emotional or nonphysical injury which has a damaging effect upon a child." Committee members expressed concern this open-ended definition expanded the scope of potential child abuse situations far beyond the initial legislative intent. The concern was that in individual cases this broad definition could be unfairly interpreted and applied.

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