

State of Iowa

Iowa Administrative Code

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PREFACE

The Biweekly Supplement to the Iowa Administrative Code (IAC) is published every other Monday, first publication being dated July 14, 1975, and will usually be in two parts.

Instructions for updating the IAC can be found following the Preface in the Supplement beginning October 6, 1975.

Initially, two binders designated "Supplements" are furnished for the Biweekly Supplements for retaining Part I material—Notices of Intended Action in one binder and Filed† and Filed Emergency rules in the other. It is suggested that this material be placed alphabetically by agency, numerically by chapters, chronologically within chapter.

Part I contains Notices of Intended Actions by administrative agencies which may be in the form of proposals for new rules or statements of either the terms or substance of the intended actions or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may be heard. Part I may also contain filed rules and filed emergency rules, in full or in part, which indicate an effective date. All of Part I is indexed in each Supplement and a cumulative index to Notices only is also provided.

Each page of Part I contains a line at the top similar to the following:

IAC Supp. 7/28/75	Agriculture[30]	Notice, p.1
IAC Supp. 9/22/75	Regents[720]	Filed, p.1

Part II contains only replacement pages to be inserted in the looseleaf IAC according to instructions in the respective Supplement. Replacement pages incorporate amendments to existing rules or entirely new rules or emergency or temporary rules which have been adopted by the agency and filed with the Secretary of State. [It may be necessary to refer to Part I to determine the specific change.] Part II may also contain new or replacement pages for "General Information" including an agenda of the Administrative Rules Review Committee which is published prior to statutory or special meeting dates. A cumulative index for Part II is provided.

If rules are filed under emergency provisions, this fact is indicated by an asterisk * with an editorial note.

If a formal objection to a rule is filed, this is indicated on the proposed or filed rule by an asterisk * with an editorial note.

Each page in Part II contains a line at the top of each page similar to the following:

IAC 7/28/75	Agriculture[30]	Ch 90, p.1
IAC 9/22/75	Conservation[290]	Temporary, Ch 103, p.1

† "Filed" means filed with the Secretary of State.

INSTRUCTIONS

for Updating Iowa Administrative Code with Biweekly Supplements

NOTE: The Iowa Administrative Code, including biweekly supplements [Vols. I to V and two supplement binders], is available by subscription for \$141.40 plus \$4.25 tax. Subscriptions must be renewed in June of each year. Volumes VI and VII and additional Supplement Binders for the IAC are now available. The cost is \$3.00 each, plus 9c sales tax. Make checks payable to: Iowa State Printing Division, and send to Grimes State Office Building, Des Moines, Iowa 50319. Be sure to specify which binder or binders you want. For those receiving the IOWA ADMINISTRATIVE CODE under statutory authority of the IOWA CODE, binders are available upon written request to Superintendent of Printing.

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions for both Part I and Part II correspond to the tab sections in the IAC Binders.

It is recommended that material in Part I—NOTICES of intended action be placed in one Supplement binder and **EMERGENCY OR FILED RULES** be placed in the other Supplement binder. It may be necessary to expand to a second binder for each category. [White correction liquid used by typists is effective in marking the binder covers] It is further suggested that all materials be placed alphabetically by agency, numerically by chapters, chronologically within chapters, whenever possible. When inserting rules with the same number, reverse the order of the dates.

Obsolete pages in Part II are listed in the column headed "Remove Old Pages". New and replacement pages in this supplement are listed in the column headed "Insert New Pages". It is important to follow instructions in both columns.

UPDATING INSTRUCTIONS

Correction for October 6, 1976 Biweekly Supplement, page 2 Part II—Under "Insert New Pages"

Insurance[510]

It should read "Ch 15, p.15—p.26"

October 20, 1976 Biweekly Supplement

PART I

SUPPLEMENT BINDERS

**Insert
Notices**

**Insert
Filed or Filed Emergency**

Agriculture[30]

1 sheet—Termination
of Notice, Ch 30

[Insert with Notice,
Ch 30, p.1, 9/22/76]

1 sheet

Architectural Examiners[80]

1 sheet

Blind[160]

1 sheet

October 20, 1976 Biweekly Supplement (cont'd)

PART I (Cont'd)

SUPPLEMENT BINDERS

	Insert Notices	Insert Filed or Filed Emergency
Conservation[290]		1 sheet
Health[470]		5 sheets
Higher Education[480]	3 sheets	
Insurance[510]	1 sheet	
Pharmacy[620]	3 sheets	
Revenue[730]	[Remove 1 sheet—Notice, Chs 11—18, 20, 26, 28, 32, 33 IAC Supp. 9/22/76] Insert 1 sheet (same date 9/22/76—typo correction)	
Social Services[770]		17 sheets
Transportation[820]	1 sheet—Notice amended, [08,C] Ch 3 [Insert with Notice [08,C] Ch 3, p.1, 9/22/76]	
		1 sheet
Index Part I (optional retention) Index (Cumulative, Notice) [Remove 10/6/76, insert 10/20/76]		

PART II

IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
Agriculture[30]	Ch 18, p.3, 3a	Ch 18, p.3, 3a
Architectural Examiners[80]	Ch 1, p.1, 2	Ch 2, p.1, 2
Blind[160]	Ch 1, p.1—Ch 1, p.12	Ch 1, p.1—Ch 5, p.1
Commerce[250]	Ch 11, p.5—Ch 12, p.1a	Ch 11, p.5—Ch 12, p.1a
Conservation[290]	Analysis, p.2, 3 Ch 30, p.3, 4	Analysis, p.2, 3 Ch 30, p.3—Ch 31, p.1

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove to be helpful in tracing the history of a rule.

October 20, 1976 Biweekly Supplement (cont'd)

PART II (cont'd)

IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
Health[470]	Analysis, p.9— Analysis, p.11 Ch 57, p.2—Ch 57, p.17 Ch 57, p.20—Ch 57, p.23 Ch 58, p.1—Ch 58, p.12 Ch 58, p.15—Ch 58, p.24 Ch 58, p.29—Ch 58, p.32 Ch 59, p.1—Ch 59, p.14 Ch 59, p.17—Ch 59, p.26 Ch 59, p.31—Ch 59, p.36 Ch 61, p.6, 7 Ch 61, p.20—Ch 71, p.1 Ch 139, p.2—Ch 143, p.2 Ch 153, p.2—Ch 160, p.3	Analysis, p.9— Analysis, p.11 Ch 57, p.2—Ch 57, p.17 Ch 57, p.20—Ch 57, p.23 Ch 58, p.1—Ch 58, p.12 Ch 58, p.15—Ch 58, p.24 Ch 58, p.29—Ch 58, p.32 Ch 59, p.1—Ch 59, p.14 Ch 59, p.17—Ch 59, p.26 Ch 59, p.31—Ch 59, p.36 Ch 61, p.6—Ch 61, p.7a Ch 61, p.20—Ch 71, p.1 Ch 139, p.2—Ch 144, p.1 Ch 153, p.2—Ch 160, p.3
Social Services[770]	Analysis, p.1— Analysis, p.6 Ch 7, p.1—Ch 17, p.1 Ch 18, p.1, 2 Ch 23, p.1—Ch 26, p.4 Ch 28, p.5—Ch 52, p.2 Ch 55, p.2, 3 Ch 106, p.2—Ch 106, p.4 Ch 130, p.1, 2 Ch 130, p.5—Ch 131, p.1 Ch 140, p.1, 2	Analysis, p.1— Analysis, p.6 Ch 7, p.1—Ch 17, p.1 Ch 18, p.1, 2 Ch 23, p.1—Ch 26, p.4 Ch 28, p.5—Ch 52, p.2 Ch 55, p.2, 3 Ch 106, p.4—Ch 106, p.4 Ch 111, p.1—Ch 130, p.2 Ch 130, p.5—Ch 131, p.1 Ch 140, p.1, 2
Transportation[820]	Analysis, p.10— [01,A] Ch 1, p.2 [10,E] Ch 12, p.2	Analysis, p.10— [01,A] Ch 1, p.2 [12,A] Ch 1, p.1— [12,B] Ch 5, p.12
Index(cumulative)	Dated 10/6/76	Dated 10/20/76

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove to be helpful in tracing the history of a rule.

PART I

October 20, 1976

AGRICULTURE DEPARTMENT[30]

NOTICE OF TERMINATION

Notice is given that the secretary of agriculture, under the provisions of section 17A.4(1)"b" of the Code of Iowa, 1975, hereby terminates proceedings relative to Items 1 through 8 (inclusive), Chapter 30 relating to Dairy, published under notice in the Iowa Administrative Code dated September 22, 1976.



AGRICULTURE DEPARTMENT[30]

Pursuant to the authority of section 163.1(1) of the Code, rules appearing in the IAC — Chapter 18 relating to Livestock Movement, are hereby amended.

Repeal 18.4(10) relating to S-branding of exposed cattle moving from a livestock market to slaughter.

[Filed October 1, 1976]

The Department of Agriculture for good cause under the provision of section 17A.4(2) finds that notice and public participation would be impracticable and contrary to public interest for the following reasons:

It would involve unnecessary expense and the action is being taken in response to the overwhelming objections of the Administrative Rules Review Committee.

This rule repeal shall become effective immediately upon filing with the Secretary of State, as provided by section 17A.5(2)"b"(2), in that the repeal confers a benefit and removes a restriction on the public in that it removes a branding restriction until the secretary of agriculture, working with the Administrative Rules Review Committee, adopts a more distinct rule.

[Published October 20, 1976]

See also IAC Supp. 9/8/76.



ARCHITECTURAL EXAMINERS[80]

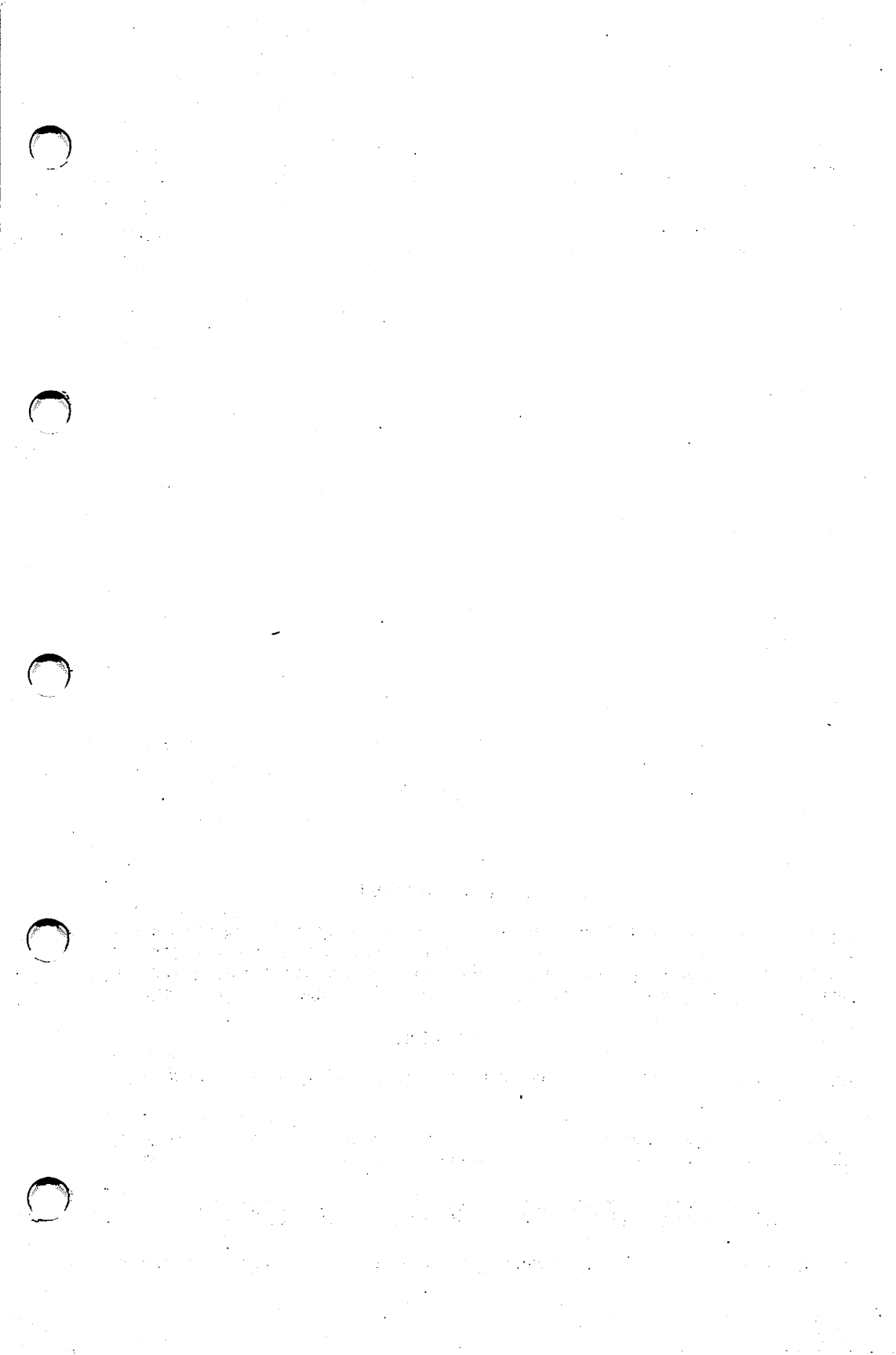
The Iowa Board of Architectural Examiners, under the authority of chapters 118 and 17A of the Code hereby rescinds Chapter 1 of IAC and adopts the following rules, Chapters 1 and 2, in lieu thereof.

For complete text of Chapters 1 and 2, see replacement pages for IAC in Part II of this Supplement.

[Filed October 1, 1976]

Notice of Intended Action regarding these rules was published in IAC Supplement September 8, 1976 and are identical to those published under the Notice with the exception of 2.2(118,117A) and 2.3(118,117A) wherein the date of July, 1975 was inserted as recommended by the Administrative Rules Committee. These rules shall become effective December 8, 1976.

[Published October 20, 1976]



BLIND, COMMISSION FOR[160]

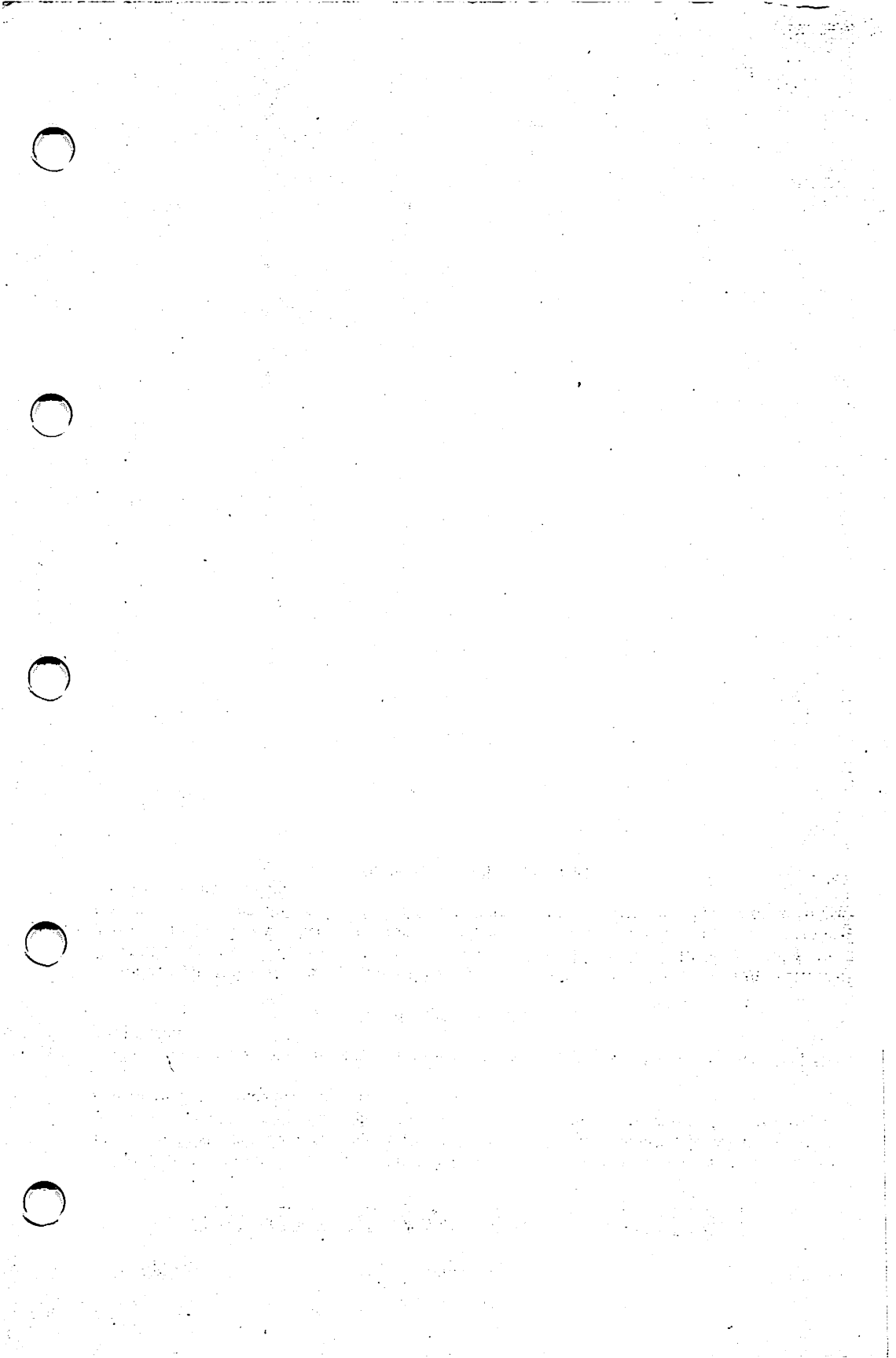
Pursuant to authority of sections 601B.7 and 17A.3 of the Code, rules appearing in the Iowa Administrative Code as 160—1.1(601B) through 1.14(10) relating to rehabilitation of blind persons are hereby amended by rescinding the present chapter 1 and substituting in lieu thereof the following new chapters, 1 to 5.

For complete text of chapters 1 to 5, see replacement pages for IAC in Part II of this Supplement.

[Filed September 23, 1976]

Notice of intended action regarding these rules was published in the Iowa Administrative Code August 9, 1976, and they shall become effective November 24, 1976. Rules 1.4, 4.1(3), and 4.1(5) have been modified as suggested by the Administrative Rules Review Committee on September 21, 1976, but otherwise these rules are identical to those published under notice.

[Published October 20, 1976]



CONSERVATION COMMISSION[290]

The state conservation commission, under the authority of sections 107.24, 106.3 and 106.31, Code 1975, has adopted the following addition to the Division of Lands and Waters, Chapter 30, Speed and Distance - Zoning appearing Iowa Administrative Code (7/1/75), relating to vessel operation on Lake Icaria, Adams County. [Rule 30.59]

For complete text of chapter 30, see replacement pages for IAC in part II of this Supplement.

[Filed September 23, 1976]

The notice of intended action was published June 28, 1976. There were no comments received and the rule is exactly as published in that notice. The rule shall become effective November 24, 1976.

[Published October 20, 1976]

HEALTH DEPARTMENT[470]

Pursuant to the authority of chapter 119, sections 23 and 37, of the Acts of the Sixty-sixth General Assembly, 1975 session, Chapters 57, 58, 59, and 61 of the rules relating to health care facilities are hereby amended. [IAC, 8/23/76]

Amendments to Chapter 57, Residential Care Facilities:

✓ ITEM 1. Insert new subrule 57.1(11), which reads as follows: "'Medication' means any drug including over-the-counter substances ordered and administered under the direction of the physician."; and renumber the following subrules accordingly.

✓ ITEM 2. Amend 57.2(3), by adding before the period the words "within forty-five days of receipt".

✓ ITEM 3. Amend 57.5(1), by striking the words "suitably framed and".

✓ ITEM 4. Strike 57.10(2)"b" and insert in lieu thereof the following: "Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs either approved or provided by the department; (III)".

✓ ITEM 5. Amend 57.12(1)"b" by inserting the word "intoxicating" before the word "drugs".

✓ ITEM 6. Strike 57.12(1)"e" and insert in lieu thereof the following: "Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)".

✓ ITEM 7. Amend 57.12(2)"b" by striking in the second sentence the words "during the night" and inserting in lieu thereof the words "at all times".

✓ ITEM 8. Insert new paragraph 57.12(2)"d" which reads as follows: "Physician's orders shall be implemented by qualified personnel. (II, III)".

✓ ITEM 9. Amend 57.13(1)"i"(3) by adding before the period in the first sentence the words "for that resident".

✓ ITEM 10. Amend 57.14(2) by striking the word "possible" and inserting in lieu thereof the word "offered".

✓ ITEM 11. Strike 57.18(2)"c" and insert in lieu thereof the following: "The facility shall attempt to arrange for transportation for residents who desire to attend church services at no additional cost to the resident. (III)".

✓ ITEM 12. Amend 57.18(3)"b" by striking the word "representative" and inserting in lieu thereof the word "guardian".

✓ ITEM 13. Insert new paragraph 57.19(1)"c" which reads as follows: "Bulk supplies of prescription drugs shall not be kept in a residential care facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)".

✓ ITEM 14. Amend 57.19(2)"e" by adding before the period the words " , or if a unit dose system is used, such drugs shall be returned to the supplying pharmacist".

ITEM 15. Strike 57.19(3)"b" and insert in lieu thereof the following: "Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) Also unless the unit dose system is used, medications shall be prepared on the same shift of the same day that they are administered. (II)".

ITEM 16. Amend 57.21(4)"k" by striking the word "approval" and inserting in lieu thereof the word "disposal".

ITEM 17. Strike 57.23(2)"b" and insert in lieu thereof the following: "Staffing for the activity program shall be provided on the minimum basis of forty-five minutes per licensed bed per week. This time shall be spent in working with the organized activity and shall include salaried staff only. (II, III)".

ITEM 18. Amend 57.24(1)"d" by striking the words "church groups, recognized service clubs, public office holders, retired professional, or other".

ITEM 19. Amend 57.28(5) by striking all of the second sentence which reads as follows: "All linen and personal clothing shall be free of wrinkles."

ITEM 20. Amend 57.30(1)"i" by adding before the period the words ", except closets used for storage of residents' clothing".

ITEM 21. Amend 57.30(2)"c" by adding before the period the words ", except on furniture provided by the resident and the property of the resident".

ITEM 22. Strike 57.30(3)"e" and insert in lieu thereof the following: "*Multi-purpose rooms*. When space is provided for multi-purpose dining and activities and recreational purposes, the area shall total at least thirty square feet per licensed bed for the first one hundred beds and twenty-seven square feet per licensed bed for all beds in excess of one hundred. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)".

ITEM 23. Amend 57.30(6) by striking the words "or stored" and by adding before the period the words "except in an emergency".

Amendments to Chapter 58, Intermediate Care Facilities:

ITEM 1. Insert new subrule 58.1(12), which reads as follows "'Medication' means any drug including over-the-counter substances ordered and administered under the direction of the physician."; and renumber the following subrules accordingly.

ITEM 2. Amend 58.2(3) by adding before the period the words "within forty-five days of receipt".

ITEM 3. Amend 58.4(1) by striking the words "suitably framed and".

ITEM 4. Insert new subrule 58.4(5) which reads as follows: "No intermediate care facility shall be licensed for more beds than have been approved by the Health Facilities Construction Review Committee. (III)".

ITEM 5. Strike 58.9(2)"b" and insert in lieu thereof the following: "Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs either approved or provided by the department; (III)".

✓ ITEM 6. Amend 58.10(2) by striking in the second sentence the word "age" and inserting in lieu thereof the word "pay".

✓ ITEM 7. Amend 58.11(1)"b" by inserting the word "intoxicating" before the word "drugs".

✓ ITEM 8. Strike 58.11(1)"e" and insert in lieu thereof the following: "Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)".

✓ ITEM 9. Strike 58.11(1)"f" and insert in lieu thereof the following: "Persons employed in all departments of an intermediate care facility shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least two hundred forty hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities, and dietary without experience or training if the facility institutes a formal inservice training program to fit the job descriptions in question and documents such as have taken place within thirty days after the initial hiring of such untrained employees. (III)".

✓ ITEM 10. Rescind 58.11(1)"i" and re-letter the following paragraphs.

✓ ITEM 11. Strike 58.11(2)"a" and insert in lieu thereof the following: "Nurses who are employed in the facility on a full-time basis shall not be engaged in other full-time work. (III)".

✓ ITEM 12. Insert new paragraph 58.11(2)"m" which reads as follows: "Physician's orders shall be implemented by qualified personnel. (II, III)".

✓ ITEM 13. Amend 58.12(1)"i"(3) by adding before the period in the first sentence the words "for that resident".

✓ ITEM 14. Amend 58.13(2) by striking the word "possible" and inserting in lieu thereof the word "offered".

✓ ITEM 15. Insert new subrule 58.14(8) which reads as follows: "Each resident shall be visited by or shall visit his or her physician at least once each year. (III)".

✓ ITEM 16. Strike 58.17(2)"c" and insert in lieu thereof the following: "The facility shall attempt to arrange for transportation for residents who desire to attend church services at no additional cost to the resident. (III)".

✓ ITEM 17. Amend 58.17(3)"b" by striking the word "representative" and inserting in lieu thereof the word "guardian".

✓ ITEM 18. Strike 58.21(10) and insert in lieu thereof the following: "Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose and observing the actual act of swallowing the oral medication. (II). Also unless the unit dose system is used, medications shall be prepared on the same shift of the same day that the medication is administered. (II)".

✓ ITEM 19. Amend 58.21(17)"g" by adding before the period the words ", or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist".

ITEM 20. Insert new paragraph 58.21(17)"n" which reads as follows: "Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided. (II)" and re-letter the following paragraphs accordingly.

ITEM 21. Strike 58.22(2)"b" and insert in lieu thereof the following: "Before January 1, 1977, audiology services shall be under the direction of a qualified speech pathologist or audiologist who has a current certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association or equivalent. After January 1, 1977, audiology services shall be under the direction of a person licensed in the State of Iowa by the board of speech pathology and audiology. (II, III)".

ITEM 22. Amend 58.24(3)"b" by adding in the second sentence the words "(Revised July, 1973)" after the words "U.S. Department of Agriculture"; and by striking in the third sentence the words "a recent" and inserting in lieu thereof the words "the 1975".

ITEM 23. Amend 58.24(7)"k" by striking in the first sentence the word "removal" and inserting in lieu thereof the word "disposal".

ITEM 24. Amend 58.27(1)"d" by striking the words "church groups, recognized service clubs, public office holders, retired professionals, or other".

ITEM 25. Amend 58.33(5) by striking all of the second sentence which reads as follows: "All linen and personal clothing shall be free of wrinkles."

ITEM 26. Amend 58.35(1)"i" by adding before the period the words ", except closets used for the storage of residents' clothing".

ITEM 27. Amend 58.35(2)"c" by adding before the period the words ", except on furniture provided by the resident and the property of the resident".

ITEM 28. Amend 58.35(4)"b" by striking the word "bed" which immediately follows the word "average".

ITEM 29. Amend 58.35(5) by striking the words "or stored" and by adding before the period the words "except in an emergency".

ITEM 30. Amend 58.38(3)"a" by inserting the words "P.H.S. Pub. No. 930-D-4, Revised 1967," after the word "Guide" and the quotation marks.

Amendments to Chapter 59, Skilled Nursing Facilities:

ITEM 1. Insert new subrule 59.1(12) which reads as follows: "'Medication' means any drug including over-the-counter substances ordered and administered under the direction of the physician."; and renumber the following subrules accordingly.

ITEM 2. Amend 59.2(3) by adding before the period the words "within forty-five days of receipt".

ITEM 3. Amend 59.4(1) by striking the words "suitably framed and".

ITEM 4. Insert new 59.4(5) which reads as follows: "No skilled nursing facility shall be licensed for more beds than have been approved by the Health Facilities Construction Review Committee. (III)".

✓ ITEM 5. Strike 59.11(2)"b" and insert in lieu thereof the following: "Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs either approved or provided by the department; (III)".

✓ ITEM 6. Amend 59.12(2) by striking in the second sentence the word "age" and inserting in lieu thereof the word "pay".

✓ ITEM 7. Amend 59.13(1)"b" by inserting the word "intoxicating" before the word "drugs".

ITEM 8. Strike 59.13(1)"e" and insert in lieu thereof the following: "Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)".

ITEM 9. Strike 59.13(1)"f" and insert in lieu thereof the following: "Persons employed in all departments of a skilled nursing facility shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least two hundred forty hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities, and dietary without experience or training if the facility institutes a formal inservice training program to fit the job descriptions in question and documents such as having taken place within thirty days after the initial hiring of such untrained employees. (III)".

ITEM 10. Rescind 59.13(1)"i" and re-letter the following paragraphs.

ITEM 11. Strike 59.13(2)"a" and insert in lieu thereof the following: "Nurses who are employed in the facility on a full-time basis shall not be engaged in other full-time work. (III)".

ITEM 12. Insert new paragraph 59.13(2)"n" which reads as follows: "Physician's orders shall be implemented by qualified personnel. (II, III)".

✓ ITEM 13. Amend 59.14(1)"i"(3), by adding before the period in the first sentence the words "for that resident".

✓ ITEM 14. Amend 59.15(2) by striking the word "Possible" and inserting in lieu thereof the word "offered".

✓ ITEM 15. Insert new subrule 59.17(8) which reads as follows: "Each resident shall be visited by or shall visit his or her physician at least once each year. (III)".

ITEM 16. Strike 59.21(2)"c" and insert in lieu thereof the following: "The facility shall attempt to arrange for transportation for residents who desire to attend church services at no additional cost to the resident. (III)".

ITEM 17. Amend 59.21(3)"b" by striking the word "representative" and inserting in lieu thereof the word "guardian".

ITEM 18. Strike 59.26(10) and insert in lieu thereof the following: "Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose and observing the actual act of swallowing the oral medication. (II). Also unless the unit dose system is used, medications shall be prepared on the same shift of the same day that the medication is administered. (II)".

✓ ITEM 19. Amend 59.26(20) "g" by adding before the period the words ", or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist".

ITEM 20. Insert new paragraph 59.26(20) "n" which reads as follows: "Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided. (II)"; and re-letter the following paragraphs accordingly.

✓ ITEM 21. Strike 59.27(9) "b" and insert in lieu thereof the following: "Before January 1, 1977, audiology services shall be under the direction of a qualified speech pathologist or audiologist who has a current certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association or equivalent. After January 1, 1977, audiology services shall be under the direction of a person licensed in the State of Iowa by the board of speech pathology and audiology. (II, III)".

ITEM 22. Amend 59.29(3) "b" by adding in the second sentence the words "(Revised July, 1973)" after the words "U.S. Department of Agriculture"; and by striking in the third sentence the words "a recent" and inserting in lieu thereof the words "the 1975".

ITEM 23. Amend 59.29(7) "k" by striking in the first sentence the word "removal" and inserting in lieu thereof the word "disposal".

✓ ITEM 24. Amend 59.32(1) "d" by striking the words "church groups, recognized service clubs, public office holders, retired professionals, or other".

✓ ITEM 25. Amend 59.38(5) by striking all of the second sentence which reads as follows: "All linen and personal clothing shall be free of wrinkles."

✓ ITEM 26. Amend 59.40(1) "i" by adding before the period the words ", except closets used for the storage of residents' clothing".

ITEM 27. Amend 59.40(2) "c" by adding before the period the words ", except on furniture provided by the resident and the property of the resident".

ITEM 28. Amend 59.40(4) "b" by striking the word "bed" which immediately follows the word "average".

ITEM 29. Amend 59.40(5) by striking the words "or stored" and by adding before the period the words "except in an emergency".

✓ ITEM 30. Amend 59.43(3) "a" by inserting the words "P.H.S. Pub. No. 930-D-4, Revised 1967," after the word "Guide" and the quotation marks.

✓ ITEM 31. Strike 59.44(4) "k" and insert in lieu thereof the following: "May associate and communicate privately with persons of his or her choice: (III)".

Amendments to Chapter 61, Physical Standards of Intermediate Facilities:

ITEM 1. Strike 61.7(2), and insert in lieu thereof the following: "The bed in the isolation room shall be counted in the total licensed bed capacity of the facility. The resident of such room shall be informed, and it shall be contained in the resident's contract that the resident is subject to removal from the room when it becomes necessary to isolate a resident of the facility. If, in the determination of the department, the facility is not making

proper use of the isolation room when isolation is deemed necessary, the department may choose not to license that bed in order to promote effective and sufficient isolation methods and procedures."

[Filed without Notice, October 4, 1976]

No Notice of Intended Action was published on these amendments because the Health Department finds, pursuant to section 17A.4(2), that notice and public participation would not be necessary. These amendments were the result of: (1) changes suggested by the Administrative Rules Review Committee, proposed after hearings by that Committee on September 20 and 21, 1976; (2) changes suggested by interested persons after a series of four public meetings held at various locations around the State in July of 1976; and (3) changes suggested by interested persons submitted in writing to the department after the notice of intended action with regard to the above-mentioned chapters was published on April 19, 1976. Also these amendments were approved by the Health Facilities Advisory Committee, which has assisted the Department in formulating these rules and which consists of members representing various public-interest, consumer, and industry groups.

These rules, filed without notice, shall become effective November 24, 1976.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.

HEALTH DEPARTMENT[470]

CHIROPRACTIC BOARD OF EXAMINERS

Pursuant to the authority of sections 17A.3, 135.11(15), and chapter 151 of the Code, the health department rescinds the rules appearing in the IAC, chapter 141, and rule 160.1(147) relating to the board of chiropractic examiners, and adopts the following rules in lieu thereof.

For complete text of chapter 141 and rule 160.1(147), see replacement pages for IAC in Part II of this Supplement.

[Filed September 27, 1976]

Notice of intended action regarding these rules was printed in the IAC Supplement dated 6-14-76, and they shall become effective November 24, 1976. The proposed rules have been modified to conform with suggestions of the administrative rules review committee.

[Published October 20, 1976]

HIGHER EDUCATION FACILITIES COMMISSION[480]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of sections 261.6 and 261.15 of the Code; HF864, section 5(2) and SF1261, section 13, Acts of the Sixty-sixth General Assembly, the rules (chapters 1 to 5) which appear in 1975 IAC, are rescinded and the following adopted in lieu thereof.

The public may make suggestions on the proposed rules by both oral and written submissions no later than November 9, 1976. Such submissions should be presented to the executive director, Higher Education Facilities Commission, 201 Jewett Building Des Moines, Iowa 50309.

PREAMBLE

The Higher Education Facilities Commission is the only state agency responsible for planning and administering programs of assistance to both public and private colleges and universities throughout Iowa. Represented on the nine-member commission are the Board of Regents, the Department of Public Instruction, the Association of Private Colleges and Universities, the Advisory Committee on Vocational Education, each house of the legislature and the general public.

Established in April, 1964, to implement the federal assistance program for construction of academic facilities provided by the Higher Education Facilities Act of 1963, the commission was designated as Iowa's "1202" commission in April, 1974, under the Higher Education Act of 1965, as amended. As the "1202" commission, the Higher Education Facilities Commission is charged with "...comprehensive inventories of, and studies with respect to all public and private postsecondary educational resources in the state, including planning necessary for such resources to be better co-ordinated, improved, expanded or altered so that all persons within the state who desire, and who can benefit from postsecondary education may have an opportunity to do so."

The commission administers the following programs: Federal Grants for Undergraduate facilities, State of Iowa Scholarships, Iowa Medical Tuition Loans, Iowa Tuition Grants, Iowa Vocational-Technical Tuition Grants, The Osteopathic Subvention and Optometric Training Programs, the Comprehensive Planning Grants (Federal) and the State Student Incentive Grants (Federal).

CHAPTER 1 FEDERAL GRANTS FOR UNDERGRADUATE FACILITIES

480—1.1(261) The construction and equipment grants programs.

1.1(1) The "state plan for higher education facilities Act of 1963" adopted by the higher education facilities commission on September 23, 1964, and as amended from time to time

by the commission, constitutes the basis for carrying out its functions under Title I of the higher education facilities Act of 1963 (public law 88-204), as amended, and applicable federal regulations.

1.1(2) Under part "A" Title VI (public law 89-329), as amended, ties in obtaining federal grants for equipment and materials to improve undergraduate instruction. The commission assigns priorities, recommends grants and provides for hearings to applicants for funds.

1.1(3) Applicants for construction grants under Title I and instruction equipment grants under part "A", Title VI may obtain state plans and application instructions from the higher education facilities commission office, 201 Jewett Building, Des Moines, Iowa 50309.

CHAPTER 2

STATE OF IOWA SCHOLARSHIP PROGRAM

480—2.1(261) A state-supported and administered scholarship program.

2.1(1) *Application requirements.* All high school graduates who rank in the upper fifteen percent of their class at the end of their junior year and who take a designated standard national test during the period specified by the commission are eligible to apply for state of Iowa scholar recognition awards.

2.1(2) *Eligibility for honorary scholarship.* An applicant for a state of Iowa scholarship must meet the following initial requirements:

a. Be a resident of Iowa according to the rules established by the board of regents, IAC 720—1.4(262) and adopted by the commission.

b. Release test scores and rank in class to the commission on a form specified by the commission, with date of receipt by the commission as stated in the application instructions.

2.1(3) *Eligibility for monetary scholarship.* Having qualified academically as a state of Iowa scholar, an applicant applying for a monetary award must meet the following requirements:

a. Complete requirements for the high school diploma or its equivalent by the end of the summer preceding entrance into college.

b. In the case of an applicant who has earned a general equivalency diploma, class rank will be waived and academic potential will be judged on the basis of test scores alone.

c. Plan to enroll as a full-time freshman student at a participating college, university or other postsecondary institution in Iowa.

d. File a statement of family financial circumstances on forms designated by the commission for the purpose of assessing need for financial assistance, such statement to be received at the specified processing center by the date indicated in the application instructions.

2.1(4) *Criteria for awards.*

a. Academic rank of an applicant is determined by two factors, percentile rank in high school class and scores on the designated standard national test, combined in a six to four weighting ratio, respectively, to produce an academic index score. The commission determines the minimum academic index score for state of Iowa scholar honorary awards.

b. Financial need, defined as the difference between the applicant's resources and anticipated expenses at the Iowa institution of his or her choice, is evaluated on the basis of the confidential statement of family income and assets.

(1) A dependent applicant's resources include the estimated amount of the parents' contribution toward college costs; a minimum contribution of from five hundred dollars to seven hundred dollars in summer earnings, the amount to be dependent upon the year of undergraduate study; and a portion of the applicant's personal assets, if any. A self-supporting applicant's resources include a minimum contribution of from five hundred dollars to seven hundred dollars, dependent upon the year of undergraduate study plus an additional expected contribution based on income and assets of the student and his or her

spouse. For purposes of determining financial independence, the commission has adopted the definition currently in use by the U. S. office of education for the federally-funded programs of student assistance, as of October 1, 1976.

(2) College expenses include tuition and mandatory fees, room and board and a uniform allowance established by the commission for other college-related costs.

2.1(5) *Honorary and monetary awards.*

a. All applicants designated state of Iowa scholars on the basis of academic rank are awarded certificates of achievement and are eligible for monetary award consideration if they meet the requirements set forth under 2.1(3).

b. Monetary state scholarships are awarded by order of academic rank to those designated state of Iowa scholars who demonstrate financial need, insofar as the appropriated funds permit.

(1) Monetary awards range from one hundred to six hundred dollars, not to exceed tuition and mandatory fees at the institution selected by the recipient.

(2) Awards are prorated on a quarterly or semester basis and are paid directly to the institution on the student's behalf after certification that the recipient is in attendance.

(3) If a recipient is dismissed or withdraws from college before completion of the term, entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the institution to the state.

(4) Upon the request of the recipient, a scholarship may be transferred from one participating institution to another before the beginning of the college term. The amount of the scholarship may be changed, if expenses differ significantly from those at the original college choice.

(5) A recipient may request a leave of absence for a maximum of one calendar year if illness, financial circumstances or other reasons beyond his or her control prevent enrollment or force withdrawal from college.

2.1(6) *Acceptance forms.* A monetary scholarship recipient is required to return an acceptance form to the Commission by the date specified, reporting financial aids from other sources and agreeing to the terms of the award. If the total nonrepayable aid from other sources in addition to the state award exceeds the student's financial need, the commission may adjust or withdraw the scholarship. The commission may require that a state aid applicant apply for the federal basic grant.

2.1(7) *Eligible institutions.* The following categories of Iowa postsecondary institutions are eligible to participate in the state of Iowa scholarship program:

a. Institutions holding accreditation by the north central association of colleges and secondary schools.

b. State-supported area community colleges and vocational-technical schools accredited by the state department of public instruction.

c. Schools of professional nursing accredited by the state board of nursing.

d. Institutions which, in the absence of one of the above accreditations, have fulfilled the requirements for Iowa tuition grant participation set forth in subrules 261.9"b" and "c" of the Code.

2.1(8) *Renewal of state scholarship.*

a. A state scholarship recipient may receive renewal of the award for succeeding years of undergraduate study, to the extent that funds are available and as authorized by the commission, provided that the student is in satisfactory standing with his or her post-secondary school and continues to demonstrate need for financial assistance.

b. Renewal applications will be sent to the student's home address in the spring and must be filed by the date indicated thereon.

c. Renewal awards will be reevaluated annually on the basis of changes in college costs and financial circumstances of the student.

d. Acceptance forms. A renewal recipient is required to return an acceptance form to the commission by the date specified, reporting financial aids from other sources and agreeing to the terms of the award. If the total nonrepayable aid from other sources in addition to the state award exceeds the student's financial need, the commission may adjust or withdraw the scholarship.

CHAPTER 3 IOWA MEDICAL TUITION LOAN PLAN

480—3.1(261) Tuition loans for Iowa resident students who agree to become general practitioners (family doctors) and practice in Iowa. Funding discontinued in 1973.

3.1(1) *Loan contract.* A separate loan contract with the executive director of the higher education facilities commission has been negotiated for each academic year in which tuition loans were made under this plan. The signed and notarized contract affirms the following conditions:

a. The borrower plans to practice general medicine in Iowa for at least five years after completion of his or her training, such training to include one year of internship either within or outside the state.

b. The borrower will notify the commission within thirty days of any change of address or intent to terminate the agreement.

c. If the borrower enters military service after completion of medical training, the first two years of such service shall be applied toward cancellation of the debt.

d. The full amount of the loan, less any portion canceled as the result of partial fulfillment of the contract, plus interest dating from issuance of the loan shall become due and payable according to the terms of the contract if the borrower discontinues medical training, enters a specialized field of medicine or establishes practice outside the state of Iowa.

e. Repayment shall be made in not more than ten equal semiannual installments beginning within one month after termination of the agreement.

3.1(2) *Family practice residency.* A borrower who enters a "family practice residency" at an Iowa hospital shall be granted a maximum of three years of exemption before entering general practice in Iowa and shall receive loan cancellation benefits for up to three years. A borrower who enters "family practice residency" outside the state of Iowa shall be granted a maximum of up to three years deferral on fulfillment of the loan contract.

CHAPTER 4 IOWA TUITION GRANT PROGRAM

480—4.1(261) Tuition grants, based on financial need, to Iowa resident students attending eligible private institutions of postsecondary education in Iowa.

4.1(1) *Financial need.* The need of an applicant for financial assistance under this program shall be evaluated annually on the basis of a confidential statement of family finances filed on forms designated by the commission. The form must be received by the processing agent by the date specified in the application instructions.

4.1(2) *Tuition and mandatory fees.* Tuition and mandatory fees shall be defined as those college costs paid annually by all students enrolled on a full-time basis, such costs to be reported annually to the commission by each participating institution.

4.1(3) *Iowa residency.* The criteria used by the state board of regents to determine residency for tuition purposes, IAC 720—1.4(262) are adopted for this program.

4.1(4) *Self-supporting applicants.* For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. office of education for the federally-funded student assistance program as of October 1, 1976. Self-supporting applicants under twenty-five years of age are required to have their parents certify to their self-support by signing the financial statement.

4.1(5) *Priority for grants.* Applicants are ranked in order of the estimated amount which the family reasonably can be expected to contribute toward college expenses and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit.

4.1(6) *Acceptance forms.* A grant recipient is required to return an acceptance form to the commission by the date specified, reporting financial aids from other sources and

agreeing to the terms of the award. If the total nonrepayable aid from other sources in addition to the state award exceeds the student's financial need, the commission may adjust or withdraw the grant.

CHAPTER 5 IOWA VOCATIONAL-TECHNICAL TUITION GRANT PROGRAM

480—5.1(261) Tuition grant based on financial need to Iowa residents enrolled as full-time students in vocational or technical (career education) programs at public area schools in the state.

5.1(1) *Financial need.*

a. Financial need is defined as the difference between the estimated amount of family resources available for college expenses and the total costs at the institution the student plans to attend.

b. Financial need shall be evaluated annually on the basis of a confidential financial statement filed on forms designated by the commission which must be received by the processing agent by the date specified in the application instructions.

5.1(2) *Iowa residency.* The criteria used by the state board of regents to determine residency for tuition purposes, IAC 720—1.4(262) are adopted for this program.

5.1(3) *Self-supporting applicants.* For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. office of education for the federally-funded student assistance program as of October 1, 1976. Self-supporting applicants under 25 years of age are required to have their parents certify to their self-support by signing the financial statements.

5.1(4) *Priority for grants.* Applicants are ranked in order of the estimated amount of the student's family contribution toward college expenses and awards are granted to those who demonstrate need in order of family contribution from lowest to highest, insofar as funds permit.

5.1(5) *Acceptance forms.* A grant recipient is required to return an acceptance form to the commission by the date specified, reporting financial aids from other sources and agreeing to the terms of the award. If the total nonrepayable aid from other sources in addition to the state award exceeds the student's financial need, the commission may adjust or withdraw the grant.

5.1(6) *Full year of study.* For purposes of this program, the commission has defined full year of study as either four quarters or two semesters plus a summer session. Grant payments are prorated according to this definition.

CHAPTER 6 ADVISORY COUNCIL FOR STUDENT AID PROGRAMS

480—6.1(261) Advisory council. An advisory council selected from officers of Iowa secondary schools, public area schools, Iowa private colleges and universities, and state-supported universities, shall be established by the commission. Members are appointed to serve two-year terms with the exception of the elected presidents of the Iowa personnel and guidance association, the Iowa association of college admissions counselors, and the Iowa association of student financial aid administrators, who serve only for their one year in office. The council shall meet at least twice yearly to review the state-supported student aid programs and make recommendations to the commission for revisions in policies and procedures.

CHAPTER 7 OSTEOPATHIC SUBVENTION PROGRAM

480—7.1(261) A state-supported subvention program to be used for admission and education of Iowa residents at the college of osteopathic medicine and surgery.

7.1(1) Iowa residency. The criteria used by the state board of regents to determine residency for tuition purposes, IAC 720—1.4(262) are adopted by the commission for purposes of this program.

7.1(2) Payment of subvention funds. The commission shall authorize payment of the annual appropriation for this program to the college of osteopathic medicine and surgery after the following requirements have been met:

a. A certified roster of total enrollment in each of the three classes, indicating which students claim Iowa residency under the rules adopted by the commission, shall be filed with the commission by the registrar of the college of osteopathic medicine and surgery.

b. Each student claiming Iowa residency shall submit a signed affidavit attesting to his or her resident status under the rules adopted by the commission. By review of the affidavits and certified rosters, the commission shall confirm that at least thirty percent of each class is comprised of Iowa residents.

CHAPTER 8 OPTOMETRIC TRAINING PROGRAM

480—4.1(261) A state-supported program to ensure admission of Iowa residents to optometric training through contracts with accredited college of optometry.

8.1(1) Iowa residency. In defining a "domiciliary" of Iowa, the commission hereby adopts the criteria used by the state board of regents to determine Iowa residency for tuition purposes, IAC 720—1.4(262).

8.1(2) Contracts. Contracts with colleges of optometry shall be renegotiated annually by the commission, subject to the availability of appropriated funds.

8.1(3) Payment of contracted funds. The commission shall authorize payment of contracted funds after the following requirements have been fulfilled by the college:

a. The college will submit to the commission prior to the beginning of the academic year a list of all Iowa residents applying for admission, indicating those who have been accepted for admission.

b. Two weeks after the beginning of the academic year, the college will submit to the commission a list of names by class of Iowa residents who are officially enrolled in the optometric degree program.

8.1(4) Selection of Iowa residents. Iowa residents to be admitted to the college under contract shall be selected by the college on the basis of their qualifications and without discrimination because of sex, color or creed.

INSURANCE DEPARTMENT[510]

NOTICE OF INTENDED ACTION

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

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

The Insurance Department of Iowa under the authority of section 507B.12 of the Code, 1975, as amended, proposes to adopt rules 15.80 to 15.83 prohibiting the treating of blind, partially blind, or physically disabled individuals as a class. This action does concern new matters which do not amend or affect any existing agency rules.

The public may make suggestions as to the proposed rules by submitting a written statement to the office of the Insurance Commissioner, Lucas State Office Building, Des Moines, Iowa 50319, prior to November 16, 1976. The public may also make oral suggestions as to the proposed rules at a public hearing which will be held November 16, 1976 at 10:00 a.m. in the north half of the conference room on the first floor of the Grimes State Office Building in Des Moines, Iowa.

UNFAIR TRADE PRACTICES

CHAPTER 15

DISCRIMINATION ON THE BASIS OF BLINDNESS, PARTIAL BLINDNESS, OR PHYSICAL DISABILITY

510—15.80(507B) Purpose. The purpose of this regulation is to state that individuals who are blind, partially blind, or have a physical disability do not, for that reason, constitute a class. Therefore, individuals who are blind, partially blind, or have a physical disability will not, solely on that basis, be unfairly discriminated against in the rates charged for any contract of life insurance or life annuity or in the dividends or other benefits payable thereon or in any other of the terms and conditions of such contract; and will not, solely on the basis of blindness, partial blindness or physical disability, be unfairly discriminated against in the amount of premium, policy fees or rates charged for any policy or contract of insurance other than life or in the benefits payable thereunder or in any of the terms or conditions of such contract, or in any manner whatever.

510—15.81(507B) Definitions.

15.81(1) "Contract" shall mean "insurance policy" or "insurance contract" as defined in section 507B.2(3) of the Code.

15.81(2) "Person" shall mean "person" as defined in section 507B.2(1).

510—15.82(507B) Applicability and scope. This regulation shall apply to all contracts delivered or issued for delivery in this state by a person on or after the effective date of this regulation and to all existing group contracts which are amended or renewed on or after the effective date of this regulation.

510—15.83(507B) Prohibition.

15.83(1) For the purposes of sections of 507B.4(7)“a” and 507B.4(7)“b” of the Code, individuals shall not be considered to be of the same class solely because such individuals are blind, partially blind, or physically disabled.

15.83(2) For the purposes of section 507B.4(7)“a” individuals shall not be considered to have a different life expectancy solely because they are blind, partially blind, or physically disabled.

PHARMACY[620]

NOTICE OF INTENDED ACTION

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

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

Pursuant to authority of sections 147.90, 147.96, 155.19 and chapter 205 of the Code, rules appearing in the IAC relating to the practice of pharmacy are hereby amended.

Interested persons may submit written data, views, or arguments, or make oral presentations on the intended action by contacting the office of pharmacy examiners, 217 Jewett Bldg., Des Moines, Iowa, by November 9, 1976.

ITEM 1. Rescind 1.3(147).

ITEM 2. Amend 1.6(147), line 2, by striking the words "together with the actual written examination,".

ITEM 3. Rescind 1.7(147).

ITEM 4. Amend 1.11(155) by adding the following words "A recognized, approved or accredited college of pharmacy is an institution which meets the minimum standards of the American Council on Pharmaceutical Education and appears on its list of accredited colleges of pharmacy as published by the council as of July 1 of each year."

ITEM 5. Amend 1.12(155), line 3, by striking the words "citizenship, and".

ITEM 6. Amend 1.13(1), line 2, by striking the words "and toxicology" and inserting in lieu thereof the words "practice of pharmacy".

ITEM 7. Rescind 1.13(2).

ITEM 8. Amend 3.5(2)"b" by striking all of the fourth sentence and inserting in lieu thereof the words "Progress reports and other required records must be filed in the office of the board not later than thirty days following completion date of each report."

ITEM 9. Amend 5.4(147) by deleting the catchwords and inserting in lieu thereof the catchwords "Licensure requirements and practice after initial licensure." Amend lines 2 and 3 by striking the words "with a general average of seventy-five percent and not have been below sixty percent in any one subject". Amend line 9 by striking the words "blue ribbon examination committee".

ITEM 10. Rescind 5.8(147).

ITEM 11. Amend 5.9(147) by striking the words "the photo and all".

ITEM 12. Rescind chapter 9.

1. The first part of the report deals with the general situation of the country and the progress of the work. It is a very interesting and informative account of the work done during the year.

2. The second part of the report deals with the work done in the various departments. It is a very detailed and comprehensive account of the work done in each department.

3. The third part of the report deals with the work done in the various sections. It is a very detailed and comprehensive account of the work done in each section.

4. The fourth part of the report deals with the work done in the various divisions. It is a very detailed and comprehensive account of the work done in each division.

5. The fifth part of the report deals with the work done in the various branches. It is a very detailed and comprehensive account of the work done in each branch.

6. The sixth part of the report deals with the work done in the various offices. It is a very detailed and comprehensive account of the work done in each office.

7. The seventh part of the report deals with the work done in the various departments. It is a very detailed and comprehensive account of the work done in each department.

8. The eighth part of the report deals with the work done in the various sections. It is a very detailed and comprehensive account of the work done in each section.

9. The ninth part of the report deals with the work done in the various divisions. It is a very detailed and comprehensive account of the work done in each division.

10. The tenth part of the report deals with the work done in the various branches. It is a very detailed and comprehensive account of the work done in each branch.

PHARMACY[620]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of sections 147.90, 147.96 and 203A.15 of the Code, the Board of Pharmacy Examiners proposes to adopt the following rules.

Interested persons may submit written data, views, or arguments, or make oral presentations on the intended action by contacting the office of pharmacy examiners, 217 Jewett Bldg., Des Moines, Iowa, by November 9, 1976.

CHAPTER 6 MINIMUM STANDARDS FOR THE PRACTICE OF PHARMACY

620—6.5(147) Unethical conduct or practice.

6.5(1) It is unethical for a practitioner of the profession of pharmacy to assert, publicize, or make claim to in any way professional superiority in matters relating to prescription orders, prescription drugs, or in the preparation, handling, dispensing, or sale of drugs and medical preparations. It is also unethical for a practitioner of the profession of pharmacy to promote himself or his professional services in a manner which may undermine public confidence in the ability, character, or integrity of other practitioners of the profession of pharmacy or claim an unusual capacity to supply the drug or professional needs of his community.

6.5(2) It is unethical for a practitioner of the profession of pharmacy to make publication, or circulation of any statement tending to deceive, misrepresent, or mislead anyone, or be a party to, or an accessory to, any fraudulent or deceitful practice, or transaction in pharmacy or in the operation or conduct of a pharmacy.

6.5(3) It is unethical for a practitioner of the profession of pharmacy to enter into any agreement or arrangement with a medical practitioner, as defined in section 155.3(11), or any other person for the compounding of secret or coded prescription orders, or for any rebate, fee splitting, commission or special consideration in connection with prescription orders.

6.5(4) It is unethical for a practitioner of the profession of pharmacy to accept professional employment or share or receive compensation in any form arising out of or incidental to his professional activities from a prescriber of prescription drugs or any other person or corporation in which one or more such prescribers have a proprietary or beneficial interest sufficient to permit them to directly or indirectly exercise supervision or control over the practitioner of pharmacy in his professional responsibilities and duties or over the pharmacy wherein he practices.

6.5(5) It is unethical for a practitioner of the profession of pharmacy to lease space for a pharmacy from a prescriber of prescription drugs or a group of such prescribers on a percentage of income basis or to pay rent for space leased from a prescriber of prescription drugs or group of such prescribers which rent is not reasonable according to commonly accepted standards of the community.

6.5(6) It is unethical for a practitioner of the profession of pharmacy to serve in a pharmacy which is not operated in conformance with law, or which engages in any practice which if engaged in by a pharmacist would be unethical conduct.

6.5(7) It is unethical to disregard the confidential and personal nature of the pharmacist's professional records; except where the best interest of the patient requires or the law demands the pharmacist should not disclose such information to anyone without proper patient authorization.

620—6.6(203A) Truth in advertising in any media. (Includes price lists and catalogs, whether mailed, posted in a pharmacy, printed in a newspaper, or aired on radio or television.)

6.6(1) Adequate price information means not only the price for a prescription but also the trade or proprietary name, if any; generic name, if any; dosage form (for example, tablet, capsule or liquid); its strength per dosage unit (for example, 100 milligrams); name of manufacturer and/or distributor.

6.6(2) All charges for services to the consumer must be stated, including the cost of the drug, the pharmacist's professional fee, if any, and handling and mailing costs, if any. Other information may also be provided, so long as it is not false or misleading and does not comment on the product's safety, effectiveness or uses.

6.6(3) The advertising of controlled substances is prohibited.

620—6.7(203A) Every licensed pharmacy shall display a sign of appropriate type and size which is readily legible to the public and which shall state that the price of a prescription and professional services are available upon request from the pharmacist and upon presentation of such prescription for pricing or dispensing.

PHARMACY[620]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of sections 155.19 and 204.301 of the Code, the Board of Pharmacy Examiners proposes to adopt the following rules.

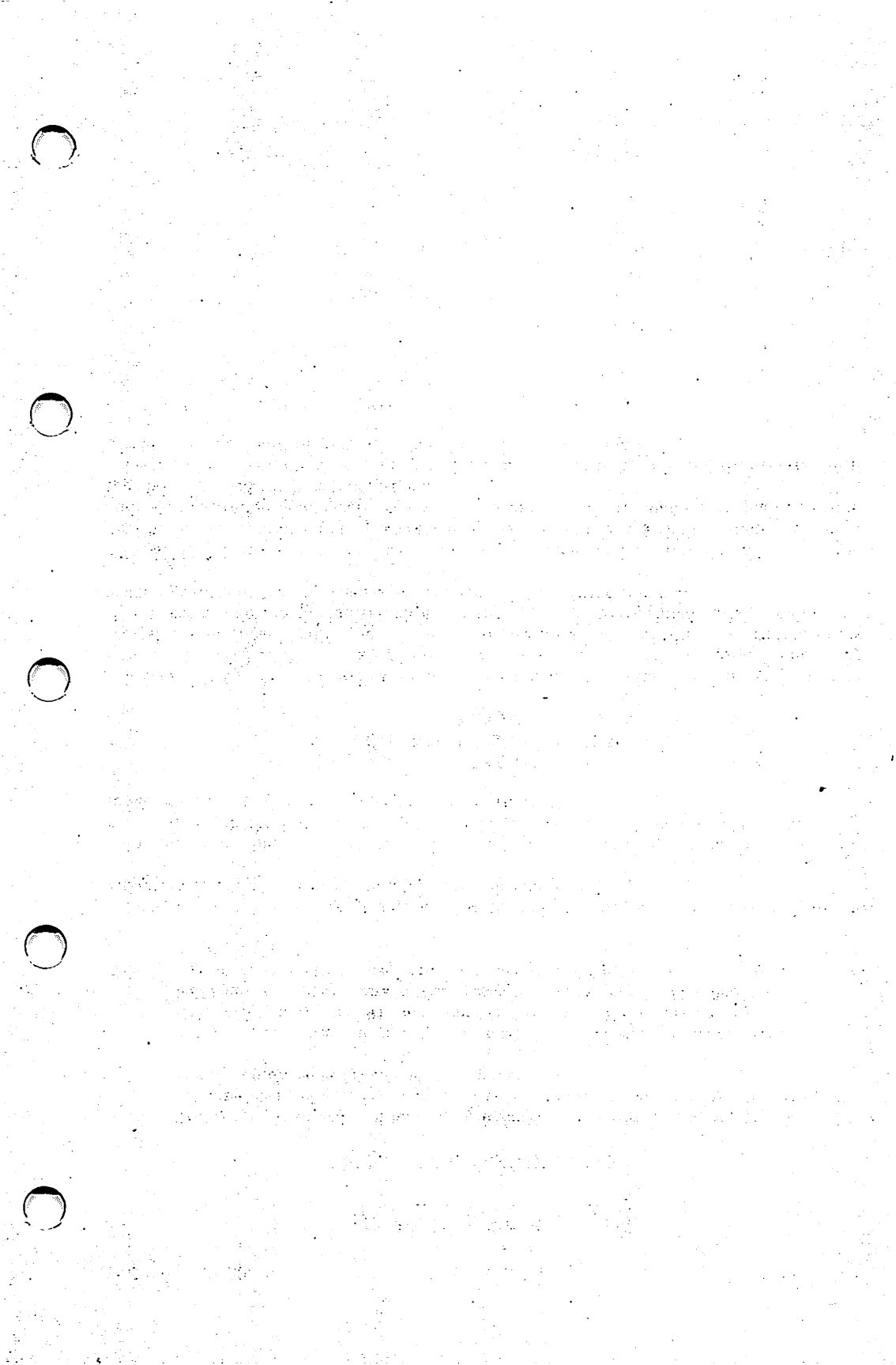
Interested persons may submit written data, views, or arguments, or make oral presentations on the intended action by contacting the office of pharmacy examiners, 217 Jewett Bldg., Des Moines, Iowa, by November 9, 1976.

CHAPTER 8 CONTROLLED SUBSTANCES (DRUGS)

8.11(3) *Identifying prescribers in institutions.* All prescriptions issued by individual practitioners (M.D., D.O., et al) practicing in institutions (hospitals or hospital emergency rooms) or other health care systems that do not use prescriber identified prescription forms shall have the name of the individual practitioner typed or hand-printed on it, as well as the usual signature of the physician and their federal registration number.

620—8.15(204) *Records form—complimentary packages.* The records form for the distribution of complimentary packages of controlled substances shall contain the name, address, registration number of the supplier and practitioner; the name and quantity of the specific controlled substances delivered.

Distributor registrants shall comply with these regulations by utilizing the records form provided by the board of pharmacy examiners for a reasonable fee.



REVENUE DEPARTMENT[730]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of section 421.14 and 422.68(1) of the Code, the Iowa Department of Revenue hereby gives notice of intended action to amend and adopt rules relating to the sales and use tax.

Any interested persons may make written suggestions or comments on these proposed rules prior to October 18, 1976. Such written material should be directed to Deputy Director, Iowa Department of Revenue, Lucas State Office Building, Des Moines, Iowa 50319. Requests for a public hearing must be received by October 14, 1976.

Persons who want to orally convey their views should contact the Deputy Director, Iowa Department of Revenue at 515/281-3346 or in Room 526 of the Lucas State Office Building.

Here follows the substance of the intended action.

ITEM 1. Rules appearing in Chapter 11, Administration, are amended as follows:
Amend 11.2(422, 423) by striking the rule and inserting in lieu thereof:

730—11.2(422,423) Statute of limitations. There shall be a five year limitation on any proceeding or action to appraise, assess, determine or enforce the collection of either sales or use tax.

Amend the chapter by adding the following new rule:

730—11.10(422) Bonding procedure. The director may, when necessary and advisable in order to secure the collection of the tax, require any person subject to such tax to file with the department a bond in such amount as the director may fix, or in lieu of such bond, securities approved by the director in such amount as the director may prescribe. Pursuant to the statutory authorization in section 422.52(3), the director has determined that the following procedures will be instituted with regard to bonds.

1. When required.

a. Classes of business. When the director determines, based on departmental records, other state or federal agency statistics or current economic conditions, that certain segments of the business community are experiencing above average financial failures such that the collection of the tax might be jeopardized, a bond or security will be required from every retailer operating a business within this class unless it is shown to the director's satisfaction that a particular retailer within a designated class is solvent and that the retailer previously timely remitted the tax. If the director selects certain classes of business for posting a bond or security, rulemaking will be initiated to reflect a listing of the classes in the rules.

b. New applications for sales tax permits. Notwithstanding the provisions of paragraph "a" above, an applicant for a new sales tax permit will be requested to post a bond or security if (1) it is determined upon a complete investigation of the applicant's financial status that the applicant would be unable to timely remit the tax or (2) the new applicant held a permit for a prior business and the remittance record of the tax under the prior

permit falls within one of the conditions in paragraph "c" below, or (3) the department experienced collection problems while the applicant was engaged in business under the prior permit.

c. Existing permit holders. Existing permit holders shall be requested to post a bond or security when they have had two or more delinquencies in remitting the sales tax during the last twenty-four months if filing returns on a quarterly basis or have had four or more delinquencies during the last twenty-four months if filing returns on a monthly basis. However, if the director has determined that reasonable cause existed for the late filing of any return or payment of any tax, the permit holder shall be granted one additional late filing within the twenty-four month period.

d. Waiver of bond. If a permit holder has been requested to post a bond or security or if an applicant for a permit has been requested to post a bond or security, upon the filing of the bond or security if the permit holder maintains a good filing record for a period of two years, the permit holder may request that the department waive the continued bond or security requirement.

2. Type of security or bond. When it is determined that a permit holder or applicant for a sales tax permit is required to post collateral to secure the collection of the sales tax, the following types of collateral will be considered as sufficient: Cash, surety bonds, securities or certificates of deposit. When the permit holder is a corporation, an officer of the corporation may assume personal liability as security for the payment of the sales tax. As such the officer will be evaluated as provided in (1) above as if the officer applied for a sales tax permit as an individual.

3. Amount of bond or security. When it is determined that a permit holder or applicant for a sales tax permit is required to post a bond or securities, the following guidelines will be used to determine the amount of the bond, unless the facts warrant a greater amount: If the permit holder or applicant will be or is a monthly depositor, a bond or securities in an amount sufficient to cover five months sales tax liability will be required. If the applicant or permit holder will be or is a quarterly filer, the bond or securities which will be required is an amount sufficient to cover nine months or three quarters of tax liability.

ITEM 2. Rules appearing in Chapter 12, Filing Returns, Payment of Tax, Penalty and Interest, are amended as follows:

Amend 12.1(422) by striking the catchwords and inserting in lieu thereof: **Returns and payment of tax.**

Amend the chapter by adding the following new rule:

730—12.9(422,423) Interest and penalty prior to and subsequent to July 1, 1974.

1. Computation for tax periods beginning before July 1, 1974. The filing of the return within the period prescribed by law and the payment of the tax required to be shown thereon are simultaneous acts and if either condition is not met, a penalty shall be assessed.

Section 422.58(1), 1973 Code of Iowa, refers to an interest penalty for failure to file a permit holders monthly deposit, a return or corrected return or to pay any tax. Only one interest penalty will be added when there is both a failure to file a return, monthly deposit or corrected return, along with a failure to pay the tax due. The rate of the interest penalty shall be five percent of the amount of tax due. For purposes of computing the interest penalty in case of failure to file a return, monthly deposit or corrected return or failure to pay the tax required to be paid with the filing of the return, the amount of tax required to be shown shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may legally be claimed on the return. If a return is determined to be delinquent, then the interest penalty will continue to be assessed on any additional amount of tax found to be due.

All payment shall be first applied to the interest penalty and then the interest and the balance, if any, to the amount of tax then due, in the order specified.

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 217.6 of the Code, rules appearing in the IAC relating to fair hearings and appeals (chapter 7) are amended by rescinding rules, 7.1(217) to 7.4(217), renumbering rule 7.5(217) as 7.6(217), and rescinding the remainder of the chapter, and inserting the following in lieu thereof.

For complete text of Chapter 7, see replacement pages for IAC in Part II of this Supplement.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. Clarification was made of when a hearing is granted, who may attend the hearing, the contents of the notice, and who may perform a required medical examination.

[Published October 20, 1976]

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 218.4 of the Code, rules of the department of social services appearing in the IAC relating to the Iowa State Penitentiary are hereby amended.

Rule 17.2(1), is amended by striking the subrule, but not the paragraphs, and inserting the following in lieu thereof:

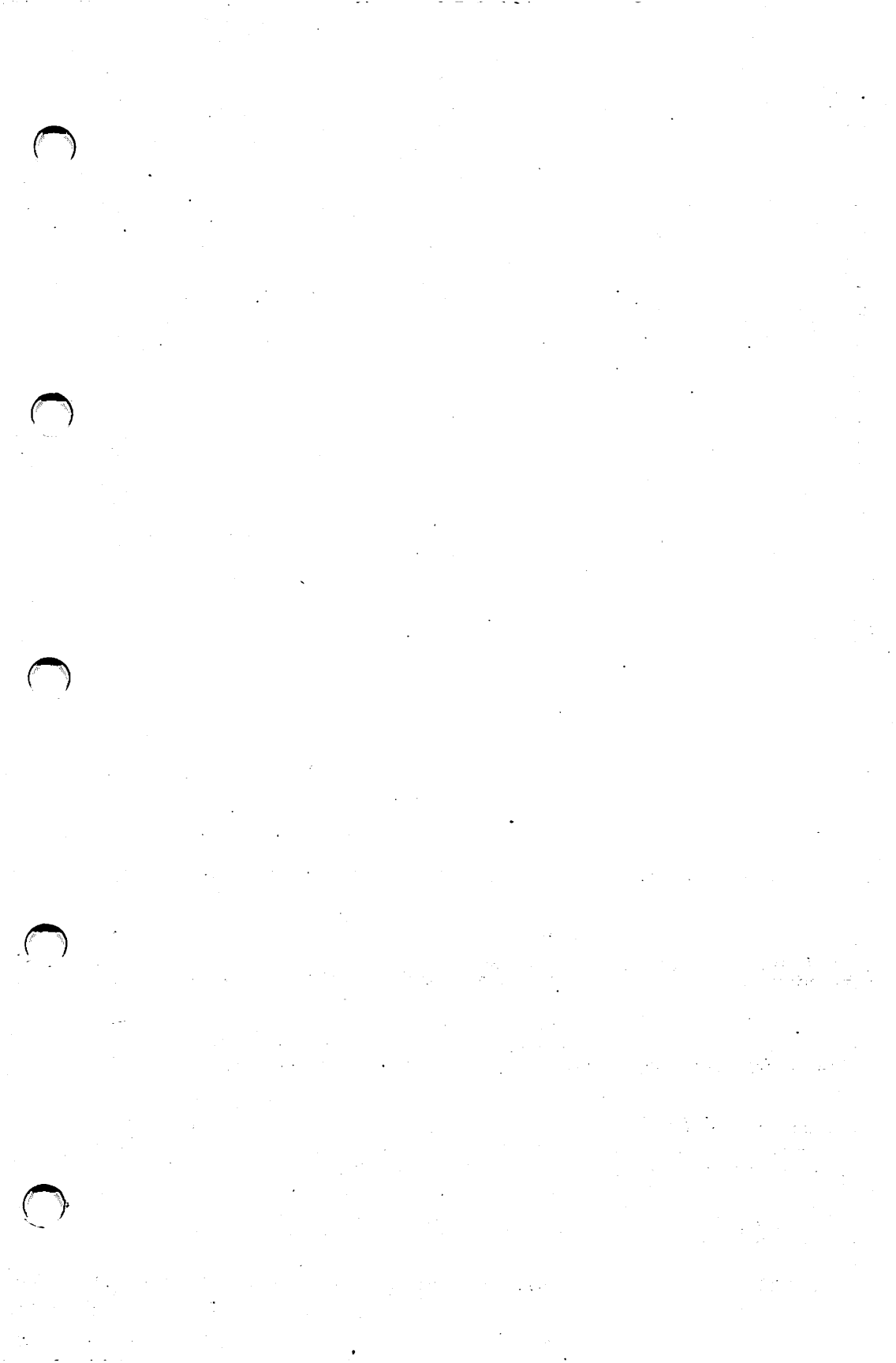
17.2(1) Visiting hours are 8:00 a.m. to 4:00 p.m. Monday and Wednesday through Friday and 8:00 a.m. to 8:00 p.m. Saturday and Sunday.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.



SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 217.29 of the Code, rules of the department of social services appearing in the IAC relating to community-based corrections (chapter 25) are hereby amended.

ITEM 1. Subrule 25.1(2), line one, is amended by striking the words "section 247.20" and inserting the words "sections 789A.3 and 789A.4 of the Code" in lieu thereof.

ITEM 2. Subrule 25.1(3), line one, is amended by striking the words "sections 247.20 and 247.21" and inserting the words "section 789A.1 of the Code" in lieu thereof.

ITEM 3. Subrule 25.1(4), line one, is amended by striking the word "247.21" and inserting the words "789A.7 of the Code" in lieu thereof.

Further amend said subrule, line two, by inserting after the word "247.5" the words "of the Code".

ITEM 4. Subrule 25.1(5), line four, is amended by striking the words "chapter 217" and inserting the words "sections 217.24 through 217.29 of the Code" in lieu thereof.

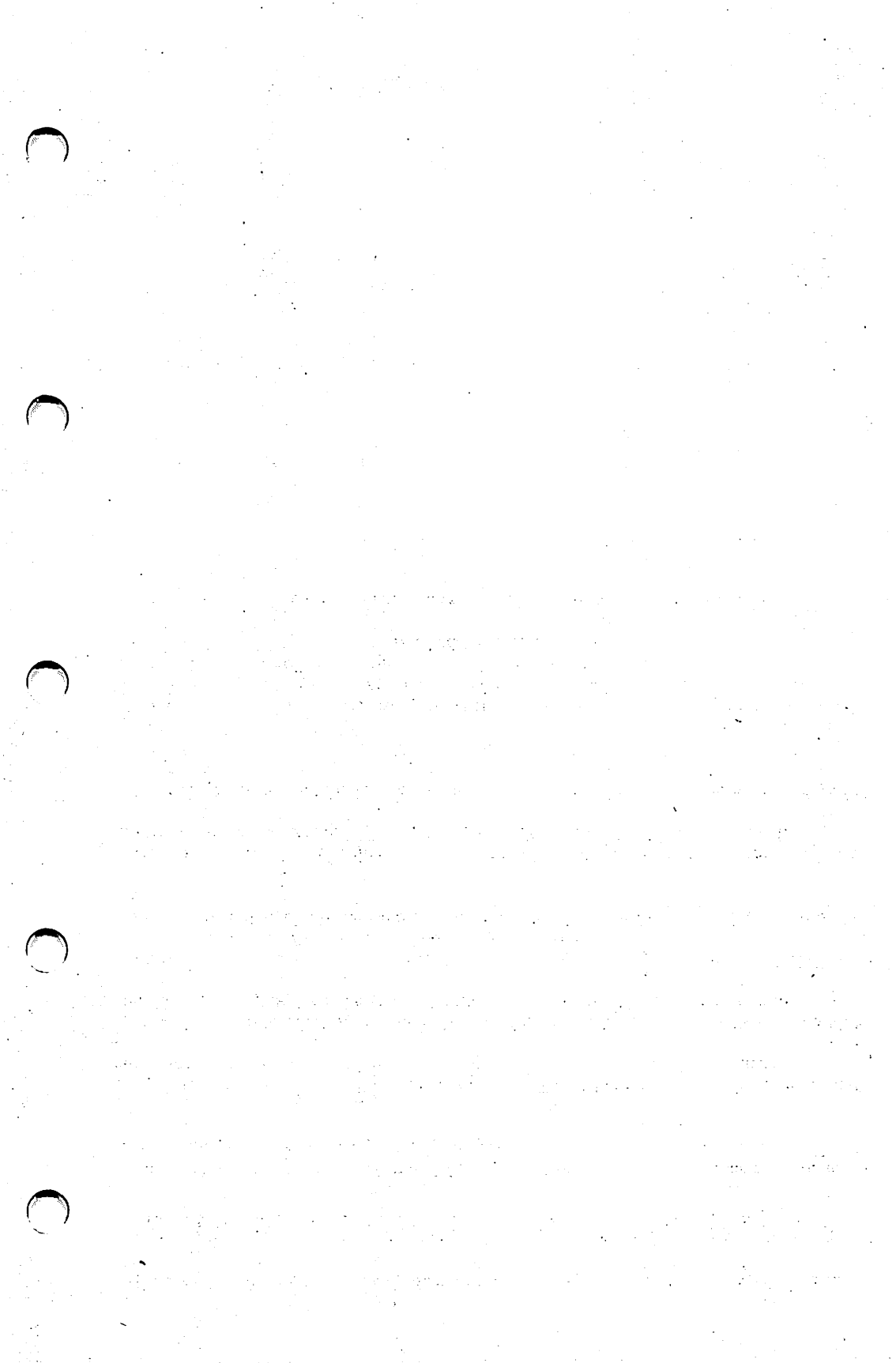
ITEM 5. Subrule 25.2(2), line one, is amended by inserting before the word "advisory" the word "state".

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see part II of this Supplement.



SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 247.6 of the Code, rules of the department of social services appearing in the IAC relating to parole and probation (chapter 26), are hereby amended.

ITEM 1. Subrule 26.4(1)"f", line three, is amended by inserting after the word "officer" the words ",where not prohibited by Federal statute".

ITEM 2. Subrule 26.11(1) is amended by striking the entire subrule and inserting the following in lieu thereof.

26.11(1) A parolee or probationer shall be considered for discharge upon the recommendation of the supervising officer following a satisfactory adjustment under supervision.

ITEM 3. Subrule 26.11(2), line one, is amended by striking the word "application" and inserting the word "recommendation" in lieu thereof.

Further amend said subrule, line one, by inserting after the word "probation" the words "as submitted by the supervising officer".

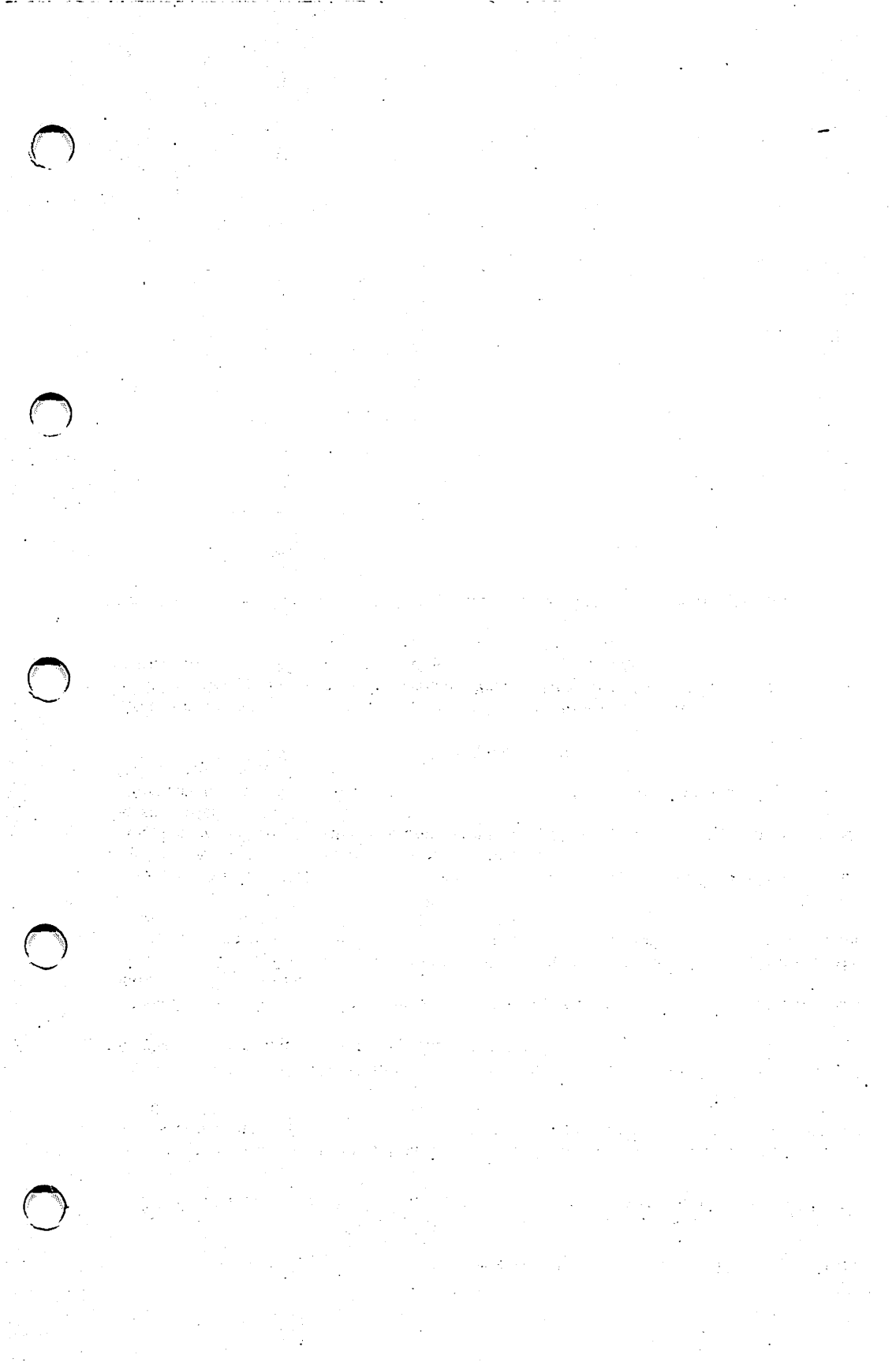
Further amend said subrule, line two, by striking the word ",by" and inserting the word "to," in lieu thereof.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published September 29, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.



SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 218.4, rules of the department of social services appearing in the IAC relating to the mental health institutes (chapter 29) are hereby amended.

ITEM 1. Subrule 29.1(1), line four, is amended by inserting after the word "and" the word "visiting".

ITEM 2. Subrule 29.1(2) is amended by striking the entire subrule and inserting the following in lieu thereof.

29.1(2) A visit shall be terminated when behavior on the part of the patient or visitor is disruptive to the patient's treatment plan.

ITEM 3. Subrule 29.1(3) is amended by striking the entire subrule and reserving said number for future use.

ITEM 4. Subrule 29.1(4), line one, is amended by striking the entire subrule and inserting the following in lieu thereof.

29.1(4) Persons wishing to visit patients shall be approved by the patient's attending physician or designee.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see part II of this Supplement.

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 218.4, rules of the department of social services appearing in the IAC relating to the state hospital-schools (chapter 30) are hereby amended.

ITEM 1. Subrule 30.1(2), line 2, is amended by adding after the word "worker" the words "or designee".

ITEM 2. Rule 30.1(218) is amended by adding the following subrule.

30.1(5) Visitors wishing to take a resident off grounds shall obtain prior approval from the resident's treatment team social worker or designee.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.

SOCIAL SERVICES DEPARTMENT[770]

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

ITEM 1. Subrule 40.1(2), line one, is amended by striking the word "county" the first time it appears, and inserting the words "local office" in lieu thereof.

Further amend said subrule by striking the word "county" the second time it appears, and inserting the words "local office of the" in lieu thereof.

ITEM 2. Rule 40.2(239) is amended by adding the following subrules.

40.2(1) Each individual wishing to do so shall have the opportunity to apply for assistance without delay.

40.2(2) An applicant may be assisted by other individuals in the application process; the client may be accompanied by such individuals in contact with the local office, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process.

40.2(3) The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the local office shall send the necessary forms in the next outgoing mail.

ITEM 3. Rule 40.5(239), line three is amended by striking the word "county" and inserting the words "local office" in lieu thereof.

Further amend said rule by adding at the end thereof the words "When eligibility is dependent upon the birth of a child the time limit may be extended while awaiting the birth of the child."

ITEM 4. Add the following new rule.

770—40.7(239) Continuing eligibility.

40.7(1) A review of all eligibility factors shall be made no less frequently than:

- a. Every six months for aid to dependent children cases.
- b. Every six months for aid to dependent children foster care cases.
- c. Every three months for aid to dependent children unemployed father cases.

40.7(2) A redetermination of specific eligibility factors shall be made when:

- a. Requested by the recipient.
- b. A change in the recipient's circumstances comes to the attention of a staff member.
- c. The worker's previous experience with and knowledge of the case indicates a more frequent contact with the recipient to determine continued eligibility and the correctness of the assistance grant.

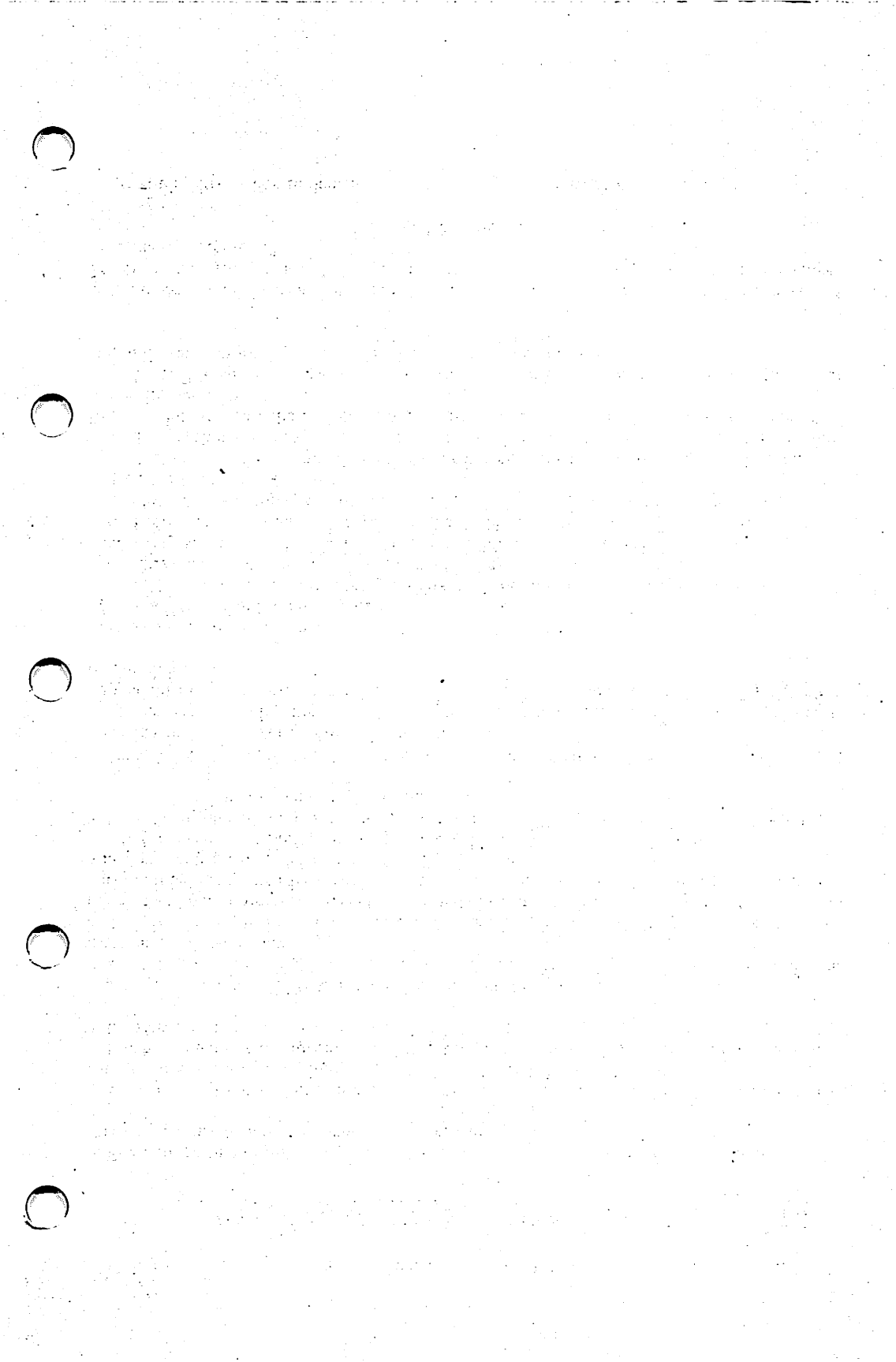
d. When the central office of the department of social services selects certain factors of eligibility for a more frequent review because of the error rate.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. Technical changes were made in these rules.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see part II of this Supplement.



SOCIAL SERVICES DEPARTMENT[770]

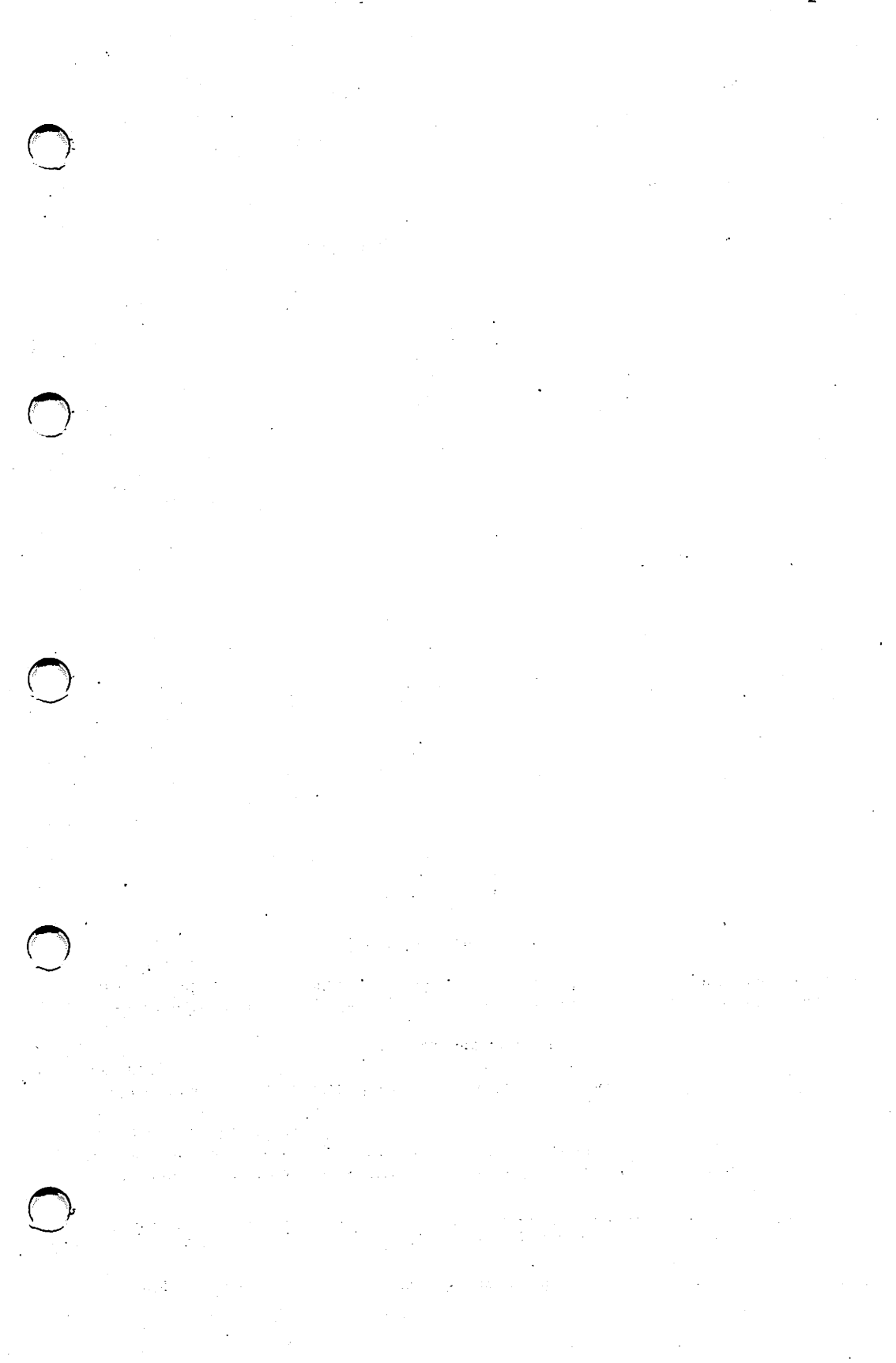
Pursuant to the authority of section 239.18 of the Code, rules of the department of social services relating to granting assistance for aid to dependent children (chapter 41) are rescinded and the following inserted in lieu thereof.

For complete text of chapter 41, see the replacement pages for IAC in part II of this Supplement.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. Technical changes were made in these rules.

[Published October 20, 1976]



SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 239.18 of the Code, the following rules are adopted.
[Chapter 43, Alternate Payees]

For complete text of Chapter 43, see the replacement pages for IAC in Part II of this Supplement.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976 and these rules shall become effective November 24, 1976. Changes were made in 43.2(6) and (7) to clarify to whom such limitations apply.

[Published October 20, 1976]

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 239.18 of the Code, the following rules are adopted.
[Chapter 44, Aid to Dependent Children Foster Care]

For complete text of Chapter 44, see replacement pages for IAC in Part II of this Supplement.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 217.6 and chapter 249 of the Code, rules appearing in the IAC of the department of social services relating to state supplementary assistance (chapter 52) are hereby amended.

ITEM 1. Subrule 52.1(1) is amended by striking the table and inserting the following in lieu thereof.

Boarding home or family life home:

\$207.00 care allowance

34.00 personal allowance

\$241.00 total

Further amend said rule by striking at the end thereof the words "The benefits of this rule shall be paid to those persons receiving payment for a protective living arrangement during July 1976 and August 1976. These rates are effective September 1, 1976 through February 27, 1977."

ITEM 2. Subrule 52.1(2) is amended by striking paragraphs "a" through "e" and inserting the following in lieu thereof.

a. Aged or disabled client and a dependent relative\$251.80

b. Aged or disabled client, eligible spouse, and a dependent relative\$335.80

c. Blind client and a dependent relative\$273.80

d. Blind client, aged or disabled spouse and a dependent relative\$357.80

e. Blind client, blind spouse and a dependent relative\$379.80

Further amend said rule by striking at the end thereof the words "The benefits of this rule shall be paid to those persons receiving payment for a dependent relative during July 1976 and August 1976. These rates are effective September 1, 1976 through February 27, 1977."

ITEM 3. Rule 52.1 is amended by striking subrule 52.1(4) and inserting the following in lieu thereof.

52.1(4) *Blind*. The standard for a blind recipient not receiving another type of state supplementary assistance is \$22.00 per month.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.



SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 249C.15 of the Code, rules of the department of social services appearing in the IAC relating to work and training programs are hereby amended.

Subrule 55.2(10), line two, is amended by striking the words "the area vocational community college in the respective area" and inserting the words "a state university in Iowa" in lieu thereof.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.



SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 237.11 of the Code, rules of the department of social services appearing in the IAC relating to foster family homes are hereby amended.

ITEM 1. Subrule 106.4(4), line four, is amended by inserting after the words "parents" the words ", except for temporary periods due to the child's illness or an emergency when close supervision is needed".

ITEM 2. Subrule 106.4(6), line one, is amended by inserting after the word "space" the words ", provided according to the age and development of the child,".

ITEM 3. Subrule 106.5(1), line one, is amended by inserting after the word "able" the words "to care for the type of child placed".

Further amend said rule, line two, by striking the words "of reputable character" and inserting the words "who are not unsuited by reasons of debauchery, habitual use of narcotic drugs, lewd or lascivious behavior, or other conduct likely to be detrimental to the physical or mental health or morals of the child" in lieu thereof.

ITEM 4. Subrule 106.7(5), line six, is amended by striking the words "Tasks shall not be assigned as punishment, nor shall such assignments interfere with" and inserting the words "However, assigned tasks shall not inappropriately deprive the child of" in lieu thereof.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.



SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 217.6 and chapter 249 of the Code, the following rules are adopted. [Chapter 111, Family-Life Homes]

For complete text of chapter 111, see replacement pages for IAC in part II of this Supplement.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. Clarification of wording was made in 111.3(1).

[Published October 20, 1976]

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 234.6 of the Code, rules of the department of social services published July 26, 1976 and appearing in the IAC are hereby amended.

ITEM 1. Subrule 130.5(1), line one, is amended by striking the words "or the provider of services".

Further amend said rule, line three, by inserting after the word "to" the word "only".

ITEM 2. Subrule 130.5(1)"a", line one, is amended by striking the word "no" and inserting the words "neither payment through the medical assistance program, Title XVIII of the Social Security Act, nor other" in lieu thereof.

ITEM 3. Subrule 130.5(1)"b", line one, is amended by striking the word "High" and inserting after the word "costs" the words "in excess of thirty percent of the household income".

ITEM 4. Subrule 130.5(1)"c" is amended by striking the entire paragraph and inserting the following in lieu thereof.

c. Utility costs, not including the cost of a telephone, in excess of fifteen percent of the household income.

ITEM 5. Subrule 130.5(1)"d", line one, is amended by striking the word "more than one service or services" and inserting the words "both homemaker and day care services or day care services" in lieu thereof.

Further amend said rule, line two, by striking the words "which require the payment of a fee".

ITEM 6. Subrule 130.5(1)"e", line one, is amended by adding before the word "Expenses" the word "Additional".

ITEM 7. Subrule 130.5(2), line three, is amended by striking the words "or partial".

Further amend said subrule, line three, by adding after the word "providing" the word "acceptable".

Further amend said subrule, line three, by adding after the word "hardship" the words "for nonpayment or partial payment".

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of sections 217.6 of the Code, rules of the department of social services appearing in the IAC relating to the Social Security Act—Title XX Implemented (chapter 131) are hereby amended.

Subrule 131.2(1), line one, is amended by striking the word "The" and inserting the words "A description of the" in lieu thereof.

Further amend said rule, line two, by inserting after the word "and" the first time it appears the words "the entire plan".

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.

1. The first part of the report is a general
description of the project. It includes a
brief history of the project, a statement of
the purpose of the project, and a description
of the scope of the project. The second part
of the report is a detailed description of the
project. It includes a description of the
methodology used, a description of the data
collected, and a description of the results
obtained. The third part of the report is a
discussion of the results. It includes a
discussion of the significance of the results,
a discussion of the limitations of the study,
and a discussion of the implications of the
results. The fourth part of the report is a
conclusion. It includes a summary of the
findings of the study and a statement of the
conclusions drawn from the study.

2. The first part of the report is a general
description of the project. It includes a
brief history of the project, a statement of
the purpose of the project, and a description
of the scope of the project. The second part
of the report is a detailed description of the
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results. The fourth part of the report is a
conclusion. It includes a summary of the
findings of the study and a statement of the
conclusions drawn from the study.

3. The first part of the report is a general
description of the project. It includes a
brief history of the project, a statement of
the purpose of the project, and a description
of the scope of the project. The second part
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results. The fourth part of the report is a
conclusion. It includes a summary of the
findings of the study and a statement of the
conclusions drawn from the study.

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 234.6 of the Code, rules of the department of social services appearing in the IAC relating to family planning services (chapter 140) are hereby amended.

ITEM 1. Subrule 140.1(3), line three, is amended by adding after the word "clinic" the word ", pharmacy".

Further amend said rule, line three, by adding after the word "center" the words ", in accordance with Iowa law".

ITEM 2. Rule 140.4, line one, is amended by striking the words "between the ages of fifteen and forty-four".

Further amend said rule, lines three and four, by striking the words "given a form entitled 'Offer of Family Planning Services'" and inserting the words "offered family planning services" in lieu thereof.

[Filed September 29, 1976]

Notice of intended action regarding these rules was published in IAC Supplement August 23, 1976, and these rules shall become effective November 24, 1976. These rules are identical to those published in the August 23, 1976 Supplement.

[Published October 20, 1976]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.

TRANSPORTATION, DEPARTMENT OF[820]

AMENDMENT TO NOTICE OF INTENDED ACTION

The notice of intended action appearing in the IAC Supplement of September 22, 1976, proposing rules relating to the functional classification review board, section [08,C] chapter 3, under the authority of section 306.6 of the Iowa Code is amended as follows:

1. Strike from the first paragraph, line 1, the words "October 5" and insert "November 2".
2. Strike from the third paragraph, line 3, "October 12" and insert "October 19".

TRANSPORTATION, DEPARTMENT OF[820]

TRANSPORTATION REGULATION BOARD

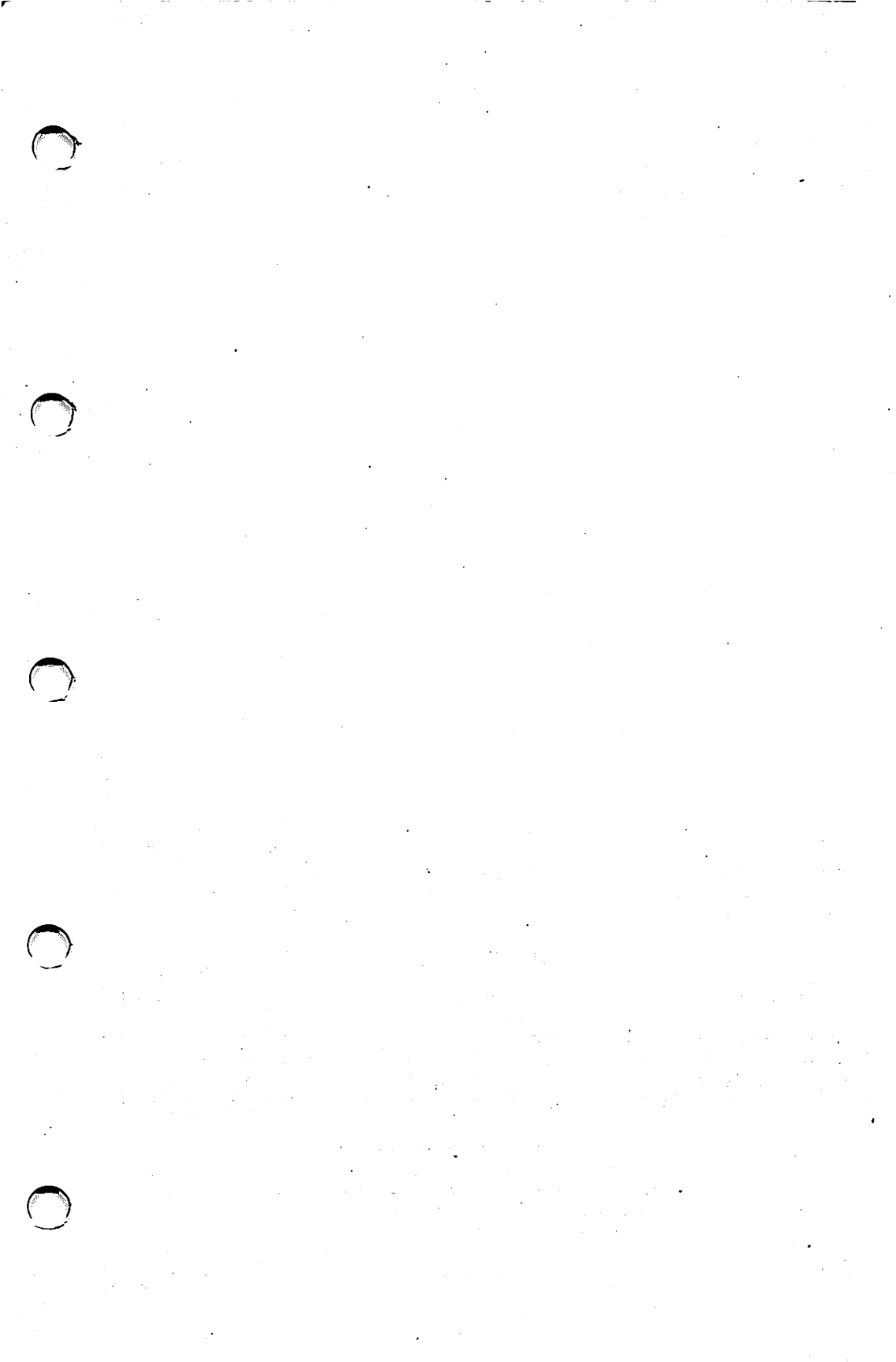
Pursuant to the authority of sections 17A.22 and 307.19, the Code, 1975, the following rules are adopted. [12 Transportation Regulation Board, Article A, Chapter 1, Organization; Article B, Chapter 1, Rules applicable to all proceedings; Chapter 2, Forms; Chapter 3, Rule making; Chapter 4, Declaratory rulings; Chapter 5, Rules of procedure]

For complete text of the above-mentioned chapters, see replacement page for IAC in Part II of this Supplement.

[Filed October 1, 1976]

Notice of Intended Action regarding [12,A] Chapter 1 and [12,B] Chapters 1 to 5 was published in IAC Supp., June 14, 1976. Said chapters will become effective November 24, 1976. With exception of typographical corrections, said rules are identical to those published under notice.

[Published October 20, 1976]



AGRICULTURE

Milk testing and sanitation, [30], ch 30

AID

Dependent children, [770], chs 40, 41, 43, 44

Family life homes, [770], ch 111

Supplementary assistance, [770], 52.1

ANIMALS

Movement of livestock, [30], 18.4

ARCHITECTURAL EXAMINERS

Generally, [80], chs 1,2

BLIND COMMISSION

Generally, [160], chs 1—5

BLIND PERSONS

Unfair trade practices, insurance, [510], ch 15

CHILDREN

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PART II

October 20, 1976

18.3(2) Provide for chutes and divisions of yarding and pens as required to handle livestock according to their classification.

18.3(3) Furnish the name of a veterinarian who will be held primarily responsible for all inspections required to be approved as veterinary inspector.

18.3(4) Permit no animals to be sold at any time prior to veterinary inspection.

18.3(5) Release only recognized beef type cattle for feeding or grazing purposes as qualify under Iowa law and federal regulations.

18.3(6) Permit no cattle under feeder quarantine in accordance with Iowa law to be sold except direct to slaughter unless permission is granted by the approved veterinary inspector, in which case they may be released for further feeding under quarantine not to exceed the unexpired time of the original quarantine.

18.3(7) Clean and disinfect all chutes, whether portable or stationary and all pens, alleyways and scales after each sale or at any time when ordered to do so by the approved veterinary inspector and in accordance with the procedure recommended by him.

18.3(8) Maintain accurate records, including records of origin, identification, destination or other disposition of all livestock handled at the livestock market. Such records shall be made available for inspection by an authorized state or federal inspector upon request. Such records shall be kept for a period of not less than one year.

18.3(9) Notify both state and federal offices immediately in the event of sale, transfer of ownership or change of management of the livestock marketing agency.

18.3(10) Failure to comply with any of the foregoing provisions shall be deemed sufficient reason to remove a market from the state-federal approved list or revoke the permit to operate as a livestock market or both. In the event of termination of operation, the permit to operate must be surrendered to the State Department of Agriculture, State Capitol Building, Des Moines, Iowa 50319.

30—18.4(163) Duties and responsibilities of the livestock market veterinary inspector.

General. The livestock market veterinary inspector shall allow sufficient time to perform his duties at the livestock market and shall inspect all livestock prior to sale whether sold by auction or private sale. In the case of auction markets he must be present during the entire time the sale is in progress. He shall have full authority to reject or detain any animal or animals at owner's expense, or any animal or animals which in his opinion is diseased or exposed in conformance with chapter 163 of the Code, which for any reason may be detrimental to the health of the animals within the state. In addition to clinical inspection on all animals, the veterinary inspector shall:

18.4(1) Permit no animal to be sold prior to test when a test is required.

18.4(2) Permit no animal to be released prior to vaccination when vaccination is required.

18.4(3) Obtain permits for movement (either interstate or intrastate) at owner's expense when permits are required.

18.4(4) Issue all official quarantines (including feeder quarantine) or other form of releasing documents before permitting animals to be removed from the livestock market.

18.4(5) Notify the state office promptly of any transfer of ownership of feeder cattle under feeder quarantine.

18.4(6) Mail copies of all official health certificates and quarantines to the division of animal industry immediately.

18.4(7) Mail copies of all test charts (both T.B. and Brucellosis) and copies of all calfhood vaccination record Form BV-1 to the United States Department of Agriculture (Des Moines branch), Animal Disease Eradication Division.

18.4(8) Report promptly all violations or refusals to comply with state laws, rules and federal regulations to the proper state or federal inspectors.

18.4(9) Failure to comply with any of the foregoing provisions shall be deemed sufficient reason for disapproving the veterinary inspector.

18.4(10)* Rescinded effective August 10, 1976, October 1, 1976.

30—18.5(163) Classification of livestock markets.

18.5(1) State-federal approved markets shall include all markets that qualify to receive cattle in conformance with state laws, rules and federal regulations (Title 9, Part 78—C.F.R.). They will be classified according to their physical facilities and equipment available to receive, handle and maintain the identity and the brucellosis health status of cattle marketed. They will be designated as Class "A", those approved to receive all classes of cattle including known brucellosis reactors, and Class "B", those approved to receive only cattle not known to be brucellosis infected.

18.5(2) Nonapproved markets shall include all markets that do not qualify for state-federal approval under Title 9, Part 78—C.F.R.

*Emergency pursuant to §17A.5(2) "b"(2) of the Code.

ARCHITECTURAL EXAMINERS[80]

CHAPTER 1

DESCRIPTION OF ORGANIZATION

- 1.1(118,17A) Organization and duties
- 1.2(118,17A) Headquarters of the board
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CHAPTER 2

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- 2.1(118,17A) Applications for registration by examination
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CHAPTER 1

DESCRIPTION OF ORGANIZATION

80—1.1(118,17A) Organization and duties. The board shall consist of five members who are registered architects and two members who are not registered architects and who shall represent the general public. Annually, the board shall elect from its members a president, vice president and secretary-treasurer. The board shall enforce the provisions of chapter 118 of the Code and shall maintain a roster of all registered architects in the state.

1.1(1) President. The president shall, when present, preside at all meetings, shall appoint all committees, shall sign all certificates, and shall otherwise perform all duties pertaining to the office of the president.

1.1(2) Vice president. The vice president shall, in the absence or incapacity of the president, exercise the duties and possess the powers of the president. The vice president shall sign all certificates.

1.1(3) Secretary-treasurer. The secretary-treasurer shall sign all certificates, and shall also sign all vouchers for payment of expenses of the board.

1.1(4) Executive secretary. The board shall employ an executive secretary who will maintain all necessary records of the board and perform all clerical duties in connection with the operation of the board offices.

80—1.2(118,17A) Headquarters of the board. The official mailing address of the board shall be: Iowa Board of Architectural Examiners, 1209 East Court Avenue, Suite 305, Des Moines, Iowa 50319.

80—1.3(118,17A) Meetings. Meetings of the board shall be called by the president and board members shall be informed of impending meetings by the executive secretary in writing at least one week before the scheduled date of the meeting.

80—1.4(118,17A) Certificates. Certificates issued to successful applicants shall contain the registrant's name, state registration number and signatures of the board president, vice president and secretary-treasurer. All certificates are renewable July 1 of each year. All registrants will receive a notice of renewal and a wallet card indicating current registration.

[Filed 4/8/70, amended 1/2/74]

[Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]

CHAPTER 2

EXAMINATIONS

80—2.1(118,17A) Applications for registration by examination. The written examination for architectural registration shall consist of two parts. The two parts are: (1) Qualifying Examination; and (2) Professional Examination.

2.1(1) Individuals holding a professional degree from a school of architecture where the degree program has been accredited by the National Architectural Accrediting Board (NAAB) will be required to pass only the professional examination for registration. All other candidates shall pass the qualifying examination and the professional examination.

2.1(2) The qualifying examination shall be a two-day, twenty-two hour examination given in three parts entitled: History and Theory of Architecture and Environmental Planning; Architectural Design and Site Planning; Construction Theory and Practice.

2.1(3) The professional examination shall be a two-day, twenty-hour examination given in four parts entitled: Environmental Analysis; Architectural Programming; Design and Technology; Construction.

2.1(4) The candidate shall either pass or fail the total examination. Candidates will not retain credit from one examination to the next for parts passed in previous examinations.

80—2.2(118.17A) Admittance to examinations. The board hereby adopts and incorporates by reference as fully as if set out herein, the standards contained in Section F-16 "Certification Standards" of Appendix "A" to the July, 1975 Circular of Information #1 issued by the National Council of Architectural Registration Boards (NCARB). The Circular of Information #1 is available at the board offices during all normal business hours.

80—2.3(118,17A) Education and training equivalents. The board hereby adopts and incorporates by reference as fully as if set out herein, the standards contained in Appendix "A" to the July, 1975 Circular of Information #1 "Table of Equivalents for Education, Training and Experience", parts F-1 through F-15, and F-17 through F-19 issued by the National Council of Architectural Registration Boards (NCARB). Circular of Information #1 is available upon request from the board offices.

2.3(1) *Council record.* Applicants for the written examinations are required to make application to the National Council of Architectural Registration Boards, 1735 New York Avenue, N.W., Washington, D. C. 20006 for a council record. This completed council record must be received in the board offices at least thirty days before the test is scheduled.

2.3(2) Reserved.

80—2.4(118,17A) Applications for registration by reciprocity. All reciprocal registrations are based on a completed state application form together with a council record prepared by the National Council of Architectural Registration Boards and must be approved by three of the registered architects serving on the board.

80—2.5(118,17A) Fee schedule. Under the authority provided in chapter 118 of the Code, the following fees are hereby adopted:

Examination fee	\$60.00
Registration fee	\$15.00
Annual renewal fee	\$25.00
Reinstatement fee	\$50.00
Duplicate certificate	\$10.00
Application fee (reciprocal)	\$10.00
Roster (except to registered architects and governmental agencies)	\$25.00

[Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]

BLIND, COMMISSION FOR[160]

CHAPTER 1 GENERAL ORGANIZATION AND ADMINISTRATION

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CHAPTER 1 GENERAL ORGANIZATION AND ADMINISTRATION

160—1.1(601B) Functions. The Iowa commission for the blind is the state agency responsible for providing a wide range of services to the blind of Iowa. The commission in general seeks to ameliorate the condition of the blind through such lawful methods as are available.

160—1.2(601B) Public information. The public may obtain information by writing, visiting, or telephoning offices of the Iowa Commission for the Blind, Fourth and Keosauqua Way, Des Moines, Iowa 50309 (515-283-2601).

160—1.3(601B) Membership. The commission consists of a three-member board appointed by the governor with the approval of two-thirds of the members of the senate. Appointees serve for a period of three years from July 1 of the year of appointment.

160—1.4(601B) Meetings. The commission holds a meeting in the director's office at the commission building at Fourth and Keosauqua Way in Des Moines at 10:00 in the morning on the second Wednesday of January each year. The commission holds such other meetings as it finds necessary.

160—1.5(601B) Officers and assistants. The commission elects its own officers and employs a director and such assistants as are necessary to carry out its statutory functions.

160—1.6(601B) Federal aid. The commission receives financial aid from the government of the United States for the purpose of assisting in carrying out its statutory functions. The commission operates under applicable federal laws and regulations governing vocational rehabilitation programs in providing such services to the blind of Iowa.

CHAPTER 2 SERVICES

160—2.1(601B) Definition. The commission accepts the following definition of blindness, and appropriate rehabilitative services will not be denied to any person on the grounds that he or she is not blind if such person meets one or more of the following criteria: (1) Vision not more than 20/200 central visual acuity in the better eye, with correcting glasses, or a field defect in which the peripheral field has contracted to an extent that the widest diameter of visual field subtends an angular distance of not greater than 20°; (2) a combination of loss of visual acuity and loss of visual field which imposes an employment handicap which is substantially that of a blind person; (3) medical prognosis indicating a progressive loss of sight which will terminate in blindness as defined in (1) of this paragraph; (4) a visual impairment sufficient to warrant attendance at the Iowa braille and sight saving school or programs for the severely visually impaired in the public schools; or (5) a visual impairment which by agreement between the Iowa rehabilitation education and services branch of the department of public instruction and the commission for the blind is such that the individual can be served best by the commission for the blind.

160—2.2(601B) Eligibility. Eligibility for vocational rehabilitation will be determined upon the presence of two basic conditions: (1) The existence of blindness as defined in 2.1(601B) above, according to the examination of an approved licensed eye practitioner, which constitutes or results in a substantial handicap to employment; and (2) reasonable expectation that vocational rehabilitation services may render the individual fit to engage in a gainful occupation. Library and social services of the commission are available to blind children and adults as defined in 2.1(601B). Library services are also available to the physically handicapped who are unable to read customarily available books and magazines because of the existence of a physical disability certified by a competent specialist. Eligibility will be determined in compliance with applicable federal and state laws prohibiting discrimination on the basis of age, race, creed, color, sex, national origin, or religion.

160—2.3(601B) Application procedure. Persons desiring services offered by the commission for the blind should contact either the commission directly or county social services offices, local public or private service organizations, general medical practitioners, ophthalmologists or optometrists. Application forms calling for data necessary to determine eligibility for services may be obtained from the Commission for the Blind, Fourth and Keosauqua Way, Des Moines, Iowa 50309.

160—2.4(601B) Available services. The commission may provide to individuals and groups under the rehabilitation program such activities and services as are necessary to enable blind persons to develop to their optimum potential. These activities and services may include but not be limited to the following: Evaluation of rehabilitation potential; counseling, guidance, and referral; physical and mental restoration; vocational and other training services; maintenance; transportation; services to other family members necessary for adjustment or rehabilitation of a blind person; interpreter services for the deaf-blind; reader services, rehabilitation teaching services, and orientation and mobility services for the blind; telecommunications, sensory, and other technological aids and devices; recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate public service employment; placement; post-employment services; occupational licenses, tools, equipment, initial stocks (including livestock) and supplies; acquisition of vending or other equipment; operation of a radio reading for the blind service; purchase, preparation, and distribution of instructional or cultural materials to be used in training, employment, or cultural upgrading of a group of handicapped individuals; purchase and maintenance of equipment in

connection with instructional materials; provision of specialized library services and equipment; making available to blind persons special tools, aids, and devices to assist them in achieving self-sufficiency; and provision of other goods and services considered beneficial to rehabilitation and amelioration of problems caused by blindness.

Joint planning between the client and the commission representative will be employed in order to determine which specific services will be most beneficial to the client in achieving his or her full potential. Such factors as the following will be taken into account in arriving at a decision as to what services will be provided: The constraints of the prevailing job market, the desires and capacities of the client, and available resources. Although there will be no upper or lower age limit as a condition to receipt of vocational rehabilitation services, specific services to individuals may vary widely since each client's needs will be determined by the potential of such services to assist the individual in achieving an appropriate level of independence, self-sufficiency, and accomplishment. In determining specific services to be provided any individual, professional judgment must necessarily be involved to a great extent.

160—2.5(601B) Consideration of similar benefits.

2.5(1) Full consideration is given to any similar benefits available to a blind person under any program (for example, workmen's compensation, Supplemental Security Income, Social Security Disability Insurance) to meet in whole or in part the cost of any vocational rehabilitation services provided to such a person, except (in accordance with federal regulations) for evaluation of rehabilitation potential; counseling, guidance, and referral; vocational and other training services, including personal and vocational adjustment training; books, tools, and other training materials; services to a member of a blind person's family; placement; and post-employment service necessary to assist blind persons in maintaining suitable employment. No training or training services in institutions of higher education (universities, colleges, community or junior colleges) shall be paid for with rehabilitation funds unless maximum efforts have been made by the commission to secure grant assistance in whole or in part from other sources to pay for such training or training services.

2.5(2) Full consideration is given to any similar benefit available under any other program to a blind person to meet, in whole or in part, the cost of physical and mental restoration services and maintenance provided to a blind person except where such consideration would significantly delay the provision of such services to an individual.

2.5(3) To the extent that an individual is eligible for such similar benefits, they are utilized insofar as they are adequate and do not interfere with achieving the rehabilitation objective of the individual.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

CHAPTER 3 PROCEDURES

160—3.1(17A) Request for rule change. Any person may request that the commission for the blind adopt, amend, or repeal any rule. To be valid the request shall:

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

Within sixty days of the receipt by the director of the commission of the proposed rule, the requested modification or the requested deletion, the director shall either deny the request stating the reasons for the denial in writing or initiate rulemaking proceedings in accordance with chapter 17A of the Code.

160—3.2(17A) Declaratory decision. Any person may petition the director for a declaratory ruling when it is demonstrated that the lack of such ruling would substantially jeopardize the petitioner's business, place the petitioner in imminent peril, or have a substantial detrimental effect on the public interest. A person with such compelling interests may submit to the director a petition regarding the application of a statute, rule, decision, order, or other written statement of law or policy to a specific factual situation. The petition requesting the opinion shall contain the name(s) of the requesting person(s), the nature of the compelling interest, the specific factual background of the question, the statute, rule, decision, order, or other written statement of law or policy deemed applicable, and the reasons for the request. The director may take a reasonable time in which to render an informed written decision unless the director is unable to reach a decision on the facts as presented. Should the director find the facts insufficient, then no decision need be issued and the director shall request that the factual situation be clarified by an amendment to the petition. Failure by the requesting party to amend the petition within fifteen days will cause the director to dismiss the petition.

160—3.3(601B) Administrative review of agency action and fair hearing.

3.3(1) Any applicant for or recipient of vocational rehabilitation services from the commission who is dissatisfied with a commission decision with regard to the furnishing or denial of services may file a written request for review and redetermination of that decision or for promulgation, amendment, or repeal of a rule, and such review shall be made by the appropriate department head or his or her designee within time limitations imposed by applicable state or federal laws and regulations.

3.3(2) If differences are not settled by administrative review, an opportunity for a fair hearing before the director or the director's designee will be granted to any individual who is not satisfied with results of the administrative review. Any applicant for vocational rehabilitation shall be advised of his or her right to an administrative review and fair hearing in the event the application is denied or is not acted upon with reasonable promptness or in the event he or she is dissatisfied with any action arising out of the commission's provision of rehabilitation services. The hearing shall be held at a time and place convenient to the individual requesting it. The individual will be notified in writing as to the time and place of the hearing within a reasonable time in advance of the hearing. The individual will also be notified in writing of his or her right to be represented at the hearing by counsel or a friend, if he or she so desires, and the individual will be so notified in time to have an adequate opportunity to prepare his or her case. At the hearing the individual and his or her representative, if he or she desires to have one, will have an adequate opportunity for cross-examination and to present evidence in his or her behalf. The hearing shall be held before the director or the director's designees who, insofar as possible, have not taken part in the action under consideration. Authority to make the final decision based upon the record shall be exercised by the director. The verbatim transcript of the testimony and exhibits or an official report containing the substance of what transpired at the hearing, together with all papers and reports filed in the proceedings and the hearing officer's recommendation, shall constitute the exclusive record for decision and shall be available to the individual at any reasonable time. The decision shall set forth the issue, principle, and relevant facts brought out at the hearing, the pertinent provisions in law and in agency policy, and the reasoning that led to the decision. The individual shall be forwarded a copy of the decision or shall be advised in writing of the content.

3.3(3) It is the policy of the commission to inform all applicants for or recipients of vocational rehabilitation services of the provisions set forth in subrules 3.3(1) and 3.3(2) above.

160—3.4(601B) Confidential information. All information as to the personal facts and circumstances of applicants or clients given or made available to the agency, its representatives, or employees in the course of administration of the commission's program,

will be held to be confidential. The use of such information and records will be limited to purposes directly connected with the administration of the vocational rehabilitation program for the blind and may not be disclosed, directly or indirectly, other than in the administration of the program, unless the implied or direct consent of the client to such release has been obtained. Release of information directly connected with the administration of the vocational rehabilitation program to any individual, agency, or organization shall be conditioned upon satisfactory assurance by such individual, agency, or organization that the information will be used only for the purpose for which it is provided and that it will not be released to any other individual, agency, or organization.

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CHAPTER 4 VENDING FACILITIES

160—4(601B,C) Rules governing the vending facility program.

4.1(1) *Assignment of operators.* In assigning managers to operate vending facilities, the commission will comply with all applicable federal and state laws prohibiting discrimination. Vending facilities will be operated only by persons who are certified by the commission on the basis of applicable federal and state laws and regulations as qualified to operate a vending facility.

Operators will be assigned for an indefinite period but subject to termination if, after affording the operator an opportunity for a fair hearing, the commission finds that the vending facility is not being operated in accordance with its rules.

4.1(2) *Removal of operators.* An individual may be removed as the operator of a vending facility on federal or other property if the commission finds that the vending facility is not being operated in accordance with its rules.

4.1(3) *Administrative review, evidentiary hearings and complaint to Secretary of Health, Education, and welfare.*

a. Any blind operator who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to the commission in writing a request for administrative review by the supervisor of the business enterprises program. It is anticipated that differences will be settled at this level.

b. If differences are not settled, the operator may submit a request for a full evidentiary hearing, which shall be held before the director or the director's designees. The hearing shall be held at a time and place convenient to the operator requesting it. The operator will be notified in writing as to the time and place of the hearing within a reasonable time in advance of the hearing. The operator will also be notified of his or her right to be represented at the hearing by counsel or a friend, if he or she so desires, and the operator will be so notified in time to have an adequate opportunity to prepare his or her case. At the hearing the operator and the operator's representative, if he or she so desires to have one, will have an adequate opportunity for cross-examination and to present evidence in the operator's behalf. The hearing shall be held before the director or director's designees who, insofar as possible, have not taken part in the action under consideration. Authority to make the final decision based upon the record shall be exercised by the director. The verbatim transcript of the testimony and exhibits or an official report containing the substance of what transpired at the hearing, together with all papers and reports filed in the proceedings and the hearing officer's recommendation shall constitute the exclusive record for the decision and shall be available to the operator at any reasonable time. The decision shall set forth the issue, principle, and relevant facts brought out at the hearing, the pertinent provisions in law and in agency policy, and the reasoning that led to the decision. The operator shall be forwarded a copy of the decision or shall be advised in writing of the content.

c. If the blind operator is dissatisfied with any action taken or decision rendered as a result of the hearing, he or she may file a complaint with the Secretary of Health, Educa-

tion, and Welfare, Washington, D. C., who shall convene a panel to arbitrate the dispute, and the decision of the panel shall be final and binding on the parties except as otherwise provided in applicable federal law and regulation.

The arbitration panel convened by the Secretary of Health, Education, and Welfare to hear grievances of blind operators shall be composed of three members appointed as follows: One individual designated by the director of the commission; one individual designated by the blind operator; and one individual not employed by the commission who shall serve as chairperson, jointly designated by the members appointed by the commission and the blind operator. If any party fails to designate its representatives the Secretary of Health, Education, and Welfare shall designate such representation.

4.1(4) *Furnishing equipment and initial stock.*

a. The commission shall be responsible for furnishing each vending facility with adequate, suitable equipment, and the operator is responsible for maintenance or upkeep of the equipment except that the commission will assume responsibility for costs arising from problems in connection with maintenance or upkeep of equipment during the first forty-five calendar days of an operator's occupancy of a location. It is understood that warranties will be fully utilized where applicable. In unusual circumstances the commission may pay particular costs in connection with maintenance and upkeep of equipment upon negotiation with the operator.

b. The commission shall furnish each vending facility with adequate initial stock of merchandise.

4.1(5) *Right, title to and interest in vending facility equipment and stock.* The right, title to and interest in vending facility equipment and stock used in the program is vested in the commission for the blind, except that if at any time any operator of a vending facility indicates a desire to become an independent owner-operator and purchase the equipment and stock of the facility he or she is operating, then the commission will immediately, in consultation with the committee of blind vendors establish specific procedures to be employed which will conform to the applicable federal law and regulation in force at the time such purchase is negotiated. The purchase price will be the fair market value of the equipment provided by the commission plus an amount equal to the purchase price paid by the commission for initial stock for the facility.

4.1(6) *Policies governing the duties, supervision, transfer and participation of operators.* The proceeds of the operation of each facility shall accrue to the operator after paying operating costs. Each vending facility operator shall agree to:

a. Perform faithfully and to the best of his or her ability the necessary duties in connection with the operation of the vending facility in accordance with the commission's rules;

b. Co-operate fully with officials and duly authorized representatives of the commission in connection with their official program responsibilities;

c. Operate the vending facility in accordance with all applicable health laws and regulations; and

d. Furnish such reports as the commission may from time to time require.

4.1(7) *Supervision of operators.* The commission will provide to each operator regular and systematic supervision and in-service training in the keeping of accounts, the selection and purchase of suitable merchandise, the maintenance of a clean and attractive location, and the adoption and utilization of sound business practices and methods which will assure reasonable financial return to the operator and preserve the employment opportunities for the use of successive blind persons.

4.1(8) *Transfer of operators.* When a vacancy occurs the operator who has demonstrated business and managerial ability will be considered for promotion to the more profitable facility, if he or she so desires.

Other factors which will be given consideration relative to transfer include proximity of location of facility to residence of operator, family conditions, health of operator, or other pertinent data considered to be to the advantage of the operator or necessary for the success of the facility.

4.1(9) *Explanation to operator of his or her rights and responsibilities.* The commission shall furnish to each operator a copy of its rules and any agreements under which he or she operates, as evidenced by his or her signed statement.

4.1(10) *Standard agreement.* An agreement in writing containing general terms and any other terms specific to a given vending facility will be executed routinely under these rules and regulations.

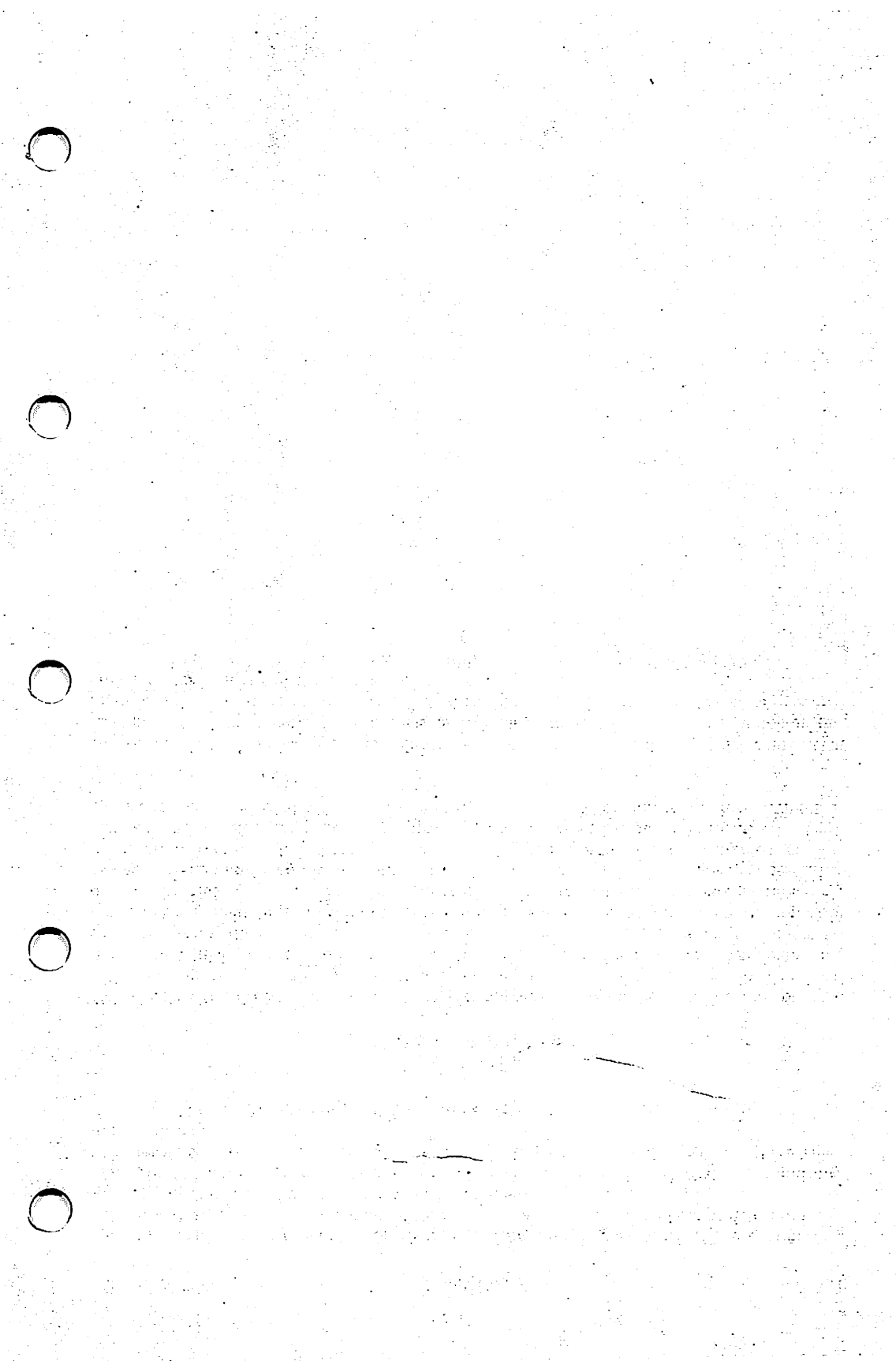
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CHAPTER 5 EMPLOYMENT PRACTICES

160—5.1(601B) **Procedures for selection and appointment.** Application for any position with the commission for the blind shall be made upon the commission's prescribed application form, which may be obtained from the director of the commission. Applicants are asked to submit their qualifications and credentials to the director as required. Credentials requested may include transcripts of college credit; records of graduate study and copies of theses, dissertations, or other professional writing; employment record; personal data (only as permitted under applicable state and federal laws and regulations); and other information required for thorough assessment of the candidate. The director or any assistant he or she may designate investigates the records and qualifications of all applicants and personally interviews applicants prior to appointment for permanent positions.

160—5.2(601B) **Nondiscrimination.** The commission for the blind does not discriminate in its employment procedures on the basis of age, sex, race, creed, color, national origin, religion, or physical or mental disability when such disability is unrelated to a person's ability to perform the duties of the job.

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meeting, including a suitable building, parking facilities, electronic voice amplification equipment when over 100 notices are served, etc.

11.4(2) Location. The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a franchise in that county. Reasonable effort shall be made to select a meeting location that conforms to the access requirements of section 104A.3, paragraphs 2, 3 and 4, Code 1975.

11.4(3) Alternate routes. For the purposes of the informational meeting, property rights of all property within the route corridor over which the applicant will seek easement, including feasible alternate routes over which the applicant may seek easement, shall be included as affected.

11.4(4) Personnel. The prospective petitioner shall provide qualified personnel to speak for the petitioner in matters relating to the following:

a. Utility service requirements and planning which have resulted in the proposed construction.

b. When the line will be constructed.

c. In general terms, the physical construction, appearance and typical location of poles and conductors with respect to property lines.

d. In general terms, the rights which petitioner shall seek to acquire by easements.

e. Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component.

g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.

h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

i. If the undertaking is a joint effort by more than one entity, the other participants shall also be represented at the informational meeting by qualified personnel to speak for them in the matters set forth in 11.4(4) "a" through 11.4(4) "h."

11.4(5) Commission approval. Commission approval shall be obtained for the proposed informational meeting date, time and location.

250—11.5(489) Notices.

11.5(1) Informational meeting notice. Announcement by official notice of the meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment rolls as responsible for payment of real estate taxes and parties in possession of or residing on the property determined to be affected by the proposed project.

a. The meeting notice shall set forth the name of the prospective petitioner; state the address of prospective petitioner's principal place of business; state the general description and purpose of the proposed project; state the general nature of the right of way desired; provide a map showing the route of the proposed project; advise that the affected party has the right to be present at the informational meeting and to file objections with the commission; and designate the place, date and time of the informational meeting.

b. Prospective petitioner shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties whose residence is known. The certified article shall be deposited in the U.S. mails not less than thirty days prior to the time set for the meeting.

c. Prospective petitioner shall cause the meeting notice including the map, to be published once in a newspaper of general circulation in the county at least one week and not more than three weeks prior to the time set for the meeting. Publication shall be considered notice to affected parties whose residence is not known.

11.5(2) Notice of franchise petition. Whenever a petition for a franchise to erect, operate and maintain an electric supply line for the transmission, distribution, use or sale of electric energy is filed with the commission, the commission shall prepare a notice addressed to the citizens of each county through which the proposed line or lines will extend. The petitioner shall cause this notice to be published in a newspaper located in each such county for two consecutive weeks. Proof of publication and proof of payment of publication costs shall be filed with the commission. This published notice shall constitute sufficient notice to all parties of the proceeding, except for owners of record and parties in possession of land to be crossed, for which voluntary easements have not been obtained at the time of filing of the petition. The petitioner shall, in addition to published notice, serve notice in writing of the filing of the petition to the owners of record and the parties in possession of the lands over which easements have not been obtained. Such served notices shall be by ordinary mail, addressed to the last known address, mailed not later than the first day of publication of the official notice. One copy of each letter of notification or a written statement showing the name, address and date mailed, shall be filed with the commission not later than five days after the date of second publication of the official notice, which publication is required by section 489.5, the Code 1975.

11.5(3) Notice of eminent domain proceedings. Where a petition for a franchise to erect, operate and maintain an electric supply line for the transmission, distribution, use or sale of electric energy, seeks the right of eminent domain, petitioner shall, in addition to published notice of hearing, serve the written notice required by section 489.6, Code 1975, in the form prescribed by the commission, of the time and place of hearing to owners of record and parties in possession of lands over which eminent domain is sought; and service shall be by certified United States mail, return receipt requested, addressed to their last known address, and this notice shall be mailed no later than five days after the date of second publication of the official notice of hearing concerning the petition. Such written notice shall include a map or plat of sufficiently large scale showing the route and width of the proposed line over the affected property. Not less than five days prior to the date of hearing, the petitioner shall file with the commission the return receipt for the certified article. The written notice of 11.5(2) is not required to parties for which statutory written notice per this paragraph is served regarding lands over which eminent domain is sought.

11.5(4) Notice to other parties. Each individual, company, corporation, or city filing a petition with the commission for a franchise to construct, operate and maintain a electric supply line, shall give notice in writing by ordinary mail, mailed at the time the petition is filed with the commission, accompanied by a map showing the route of the proposed electric supply line, to affected parties as set forth in paragraphs 11.3(2)"j", 11.3(2)"k", 11.3(2)"l", 11.3(2)"m", 11.3(2)"n" and the Iowa department of transportation. One copy of each letter of notification or a written statement showing the name, address and date of letter, shall accompany the petition when it is filed with the commission.

11.5(5) Notice in cases of addition of circuits, voltage increase, or other major change. Each individual, company, corporation, or city filing a petition with the commission where an additional electric supply circuit is to added, or the operating voltage is to be increased on an existing electric supply line, shall give notice in writing, by ordinary mail, mailed at the time the petition is filed with the commission, accompanied by a map showing the route of the electric supply line to affected parties as set forth in paragraphs 11.3(2)"j", 11.3(2)"k", 11.3(2)"l", 11.3(2)"m", 11.3(2)"n" and the Iowa department of transportation. One copy of each letter of notification or a written statement showing the name, address and date of letter, shall accompany the petition when it is filed with the commission.

11.5(6) Notice of deferred construction. Where construction of a proposed electric supply line is not commenced within one year from the date of granting the franchise or construction of a proposed improvement is not commenced on an existing electric supply line within one year from the date of granting the certificate for such an improvement, the party holding the franchise or certificate shall again notify in writing by ordinary mail all affected parties, as set forth in paragraphs 11.3(2)"j", 11.3(2)"k", 11.3(2)"l", 11.3(2)"m",

and 11.3(2) "n", not more than sixty days and not less than seven days before commencing construction. For the purposes of 11.5(6) "commencing construction" shall mean any activity along the subject line route other than surveying.

11.5(7) Notice of transfer or assignment of franchise. The holder of a franchise shall notify the commission in writing, when transferring any franchise or portion of a franchise, stating the applicable franchise number and docket number which are affected and a description of the route of the transmission line when less than the total franchised line is affected, together with the name of the transferee and date of transfer, not more than thirty days after the effective date of transfer.

250—11.6(489) Common and joint use.

11.6(1) Common use construction. Where two or more overhead electric supply lines are to occupy the same highway, or are so located as to create a structure or conductor conflict, all electric supply circuits shall be attached to the same or common line of structures unless the commission authorizes construction of separate pole lines.

11.6(2) Joint use construction. Where it is mutually agreeable between the electric supply company and the communication company, communication circuits may be buried in the same trench or attached to the same supporting structure, provided an agreement in writing signed by an authorized representative of the communication company has been filed with the electric supply company to the effect that the communication company will comply with the rules of the Iowa electrical safety code covering joint use construction applicable to the situation.

11.6(3) Relocating of lines. When an electric supply line is to be constructed in a location occupied by an electric supply line or a communication line, the expense of relocating the existing line shall be borne by the utility proposing the new electric supply line. The electric utility proposing the new line shall not be required to pay any part of the used life of the existing line, but shall pay only the nonbetterment expense of relocating the existing line.

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**CHAPTER 12
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250—12.1(543) Application of rules. These rules are subject to such changes and modifications as the commission may from time to time deem advisable and to such exceptions as may be considered just and reasonable in individual cases.

250—12.2(543) Types of products to be warehoused. Products to be warehoused shall be divided into two general types or classes as follows:

12.2(1) "Bulk grain" means grain that is not contained in sacks.

12.2(2) Agricultural and farm consumable products other than bulk grain. Such products include agricultural products suitable for storage in quantity, canned agricultural products and products used in producing other agricultural products.

For the purpose of storage, grain processed for seed purposes shall be classed as an agricultural product other than bulk grain.

250—12.3(543) Application for license. Application for a license to operate as a bonded warehouseman under the Iowa bonded warehouse law [chapter 543 of the Code] shall be made to the commission on forms prescribed for that purpose, which will be furnished to prospective applicants upon request. All such applications should be typewritten and all information must be furnished as required by section 543.5.

250—12.4(543) Warehouse license. A warehouse license shall specify the type and quantity of products which may be stored in a licensed warehouse. A license may be issued authorizing the storage of either or both general types or classes of products to be warehoused provided the warehouse or warehouses described in the application is or are

found to be suitable for the proper and safe storage of the product or products intended to be stored therein.

12.4(1) *Suitable storage.* No storage unit shall be considered suitable for the storage of bulk grain unless the warehouseman has available the necessary equipment such as; grain leg, portable augers or vacuators for handling, receiving, loading out of grain and empty storage space to turn and condition the grain to be stored therein or unless said storage unit is properly equipped with means such as air ducts and ventilating fans to keep the grain stored therein from going out of condition.

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30.37(1) Water recreation activity restrictions shall be obeyed, including restrictions within posted areas which are marked with approved buoys.

30.27(2) No dock or obstruction of any nature shall be placed in the water without first obtaining a permit from the conservation commission.

30.37(3) Application for dock permits and buoy permits shall be made on forms provided by the conservation commission for that purpose.

30.37(4) Reserved.

30.37(5) Every dock or structure shall be constructed and maintained in accordance with the requirements on the permit issued by the conservation commission and shall be removed from the water on or before December 15 of each year.

30.37(6) All buoys shall be those of a system adopted by the state conservation commission and shall be constructed, placed and maintained in accordance with chapter 106 of the Code, and the applicable rules of the conservation commission.

30.37(7) Swimming or wading shall be restricted to an area within 25 feet of shore except in special areas approved by the conservation commission and marked by approved buoys.

30.37(8) No motorboat shall be operated at speeds greater than ten miles per hour at any time between the hours from one hour after sunset to one hour before sunrise.

30.37(9) No motorboat shall be operated at a speed which will create appreciable wake or roll when within 50 feet of an occupied craft at anchor or traveling at a no-wake speed.

30.37(10) Boating accidents shall be reported as required in section 106.7 and the applicable departmental rule.

30.37(11) All water skiers shall wear a life belt or life jacket.

30.37(12) Rescinded.

30.38 to 30.42 Reserved.

290—30.43(106) Zoning of off-channel waters of the Wapsipinicon river in Pinicon Ridge Park in Linn county. No motorboat shall be operated at a speed which will create a wake within the zoned area designated by regulatory buoys or signs on the off-channel waters of the Wapsipinicon river above the dam at Central City, Linn county, Iowa.

The zoned area will be the off-channel waters created in and adjacent to the developed recreation areas of the Pinicon Ridge Park on the west and south bank of the Wapsipinicon river above the dam at Central City, Linn county.

30.44 to 30.47 Reserved.

290—30.48(106) Speed restrictions on Lake Manawa. No motorboat shall be operated at a speed greater than five miles per hour within the zoned area, designated by regulatory buoys, on Lake Manawa in Pottawattamie county, Iowa.

30.48(1) Zoned Area 1—South and east of a line from the end of the area known as "Tin Can Dike" to the southern tip of the Les Peterson property on the east shore.

30.48(2) Zoned Area 2—South and west of a line from the south end of the Eleventh Street dike to the north end point of the area known as "Boy Scout Island".

30.48(3) Zoned Area 3—North and east of a line from a point 300 yards north of the entrance to the lagoon known as the "Novak Lagoon" to the existing bench mark in the west parking area of North Park.

30.48(4) Zoned Area 4—North and west of a line from the north end of the public boat ramps in North Park to the building known as the "Neal Durick boathouse" on the north-east shore.

30.49 to 30.53 Reserved.

290—30.54(106) Zoning of Little Wall Lake. No motorboat shall be operated at a speed which will create a wake within the zoned area designated by regulatory buoys on Little Wall Lake in Hamilton county.

The zoned area will not exceed approximately 20 acres in the northeast portion of the lake identified by a line from a point on the high-water mark approximately 296.6 feet west of the southeast corner of the southwest quarter of Section 10, Township 86 North, Range 24 West; thence northwest to the high-water mark which is 775 feet south and 319 feet west of the northeast corner of the northwest quarter southwest quarter of Section 10, Township 86 North, Range 24 West.

This rule is intended to implement section 106.26 of the Code.

30.55 - 30.58 Reserved.

290—30.59(106) Lake Icaria, Adams County—watercraft use. Motorboats of outboard or inboard-outdrive type with power not to exceed 200 horsepower shall be permitted on Lake Icaria. The following rules shall govern vessel operation on Lake Icaria in Adams County.

30.59(1) All vessels shall be operated at a no-wake speed when within fifty feet of another vessel which is not underway or is operating at a no-wake speed.

30.59(2) Zoned areas.

a. No vessel, except authorized emergency vessels, shall be permitted in areas specifically designated for swimming and wading which are plainly marked by the use of buoys or signs in accordance with chapter 31, rules of the state conservation commission.

b. No motorboats, except authorized emergency vessels, shall be operated in marked bay areas at a speed greater than the limit designated by buoys or signs marking said bay. Said buoys or signs shall be in accordance with chapter 31, rules of the state conservation commission.

c. No motorboats, except authorized emergency vessels, shall be operated in restricted speed areas between the nearest shore and a line designated by uniform marker buoys or signs at a speed greater than the limit designated on the buoys or signs marking the area. Such zoned areas shall not be less than fifty feet nor more than four hundred feet from shore. Said buoys or signs shall be in accordance with chapter 31, rules of the state conservation commission.

This rule is intended to implement section 106.31 of the Code.

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CHAPTER 31 NAVIGATION AIDS

290—31.1(106) Definitions.

31.1(1) "*Waterway marker*" is any device designed to be placed in, on, or near the water to convey an official message to a boat operator on matters which may affect health, safety, or well being, except that such devices of the U.S. or any agency of the United States are excluded from the meaning of this definition.

31.1(2) "*Regulatory marker*" is a waterway marker which has no equivalent in the U.S. Coast Guard system of navigational aids.

31.1(3) "*State aid to navigation*" is a waterway marker which is the equivalent of a U.S. Coast Guard aid to navigation.

31.1(4) "*Buoy*" is any device designed to float which is anchored in the water and which is used to convey a message.

31.1(5) "*Sign*" is any device for carrying a message which is attached to another object such as a piling, buoy, structure or the land itself.

31.1(6) "*A display area*" is the area on a sign or buoy needed for display of a waterway marker symbol.

31.1(7) "*Symbols*" are geometric figures such as a diamond, circle, rectangle, etc., used to convey a basic message.

290—31.2(106) Waterway markers. Waterway markers used on the waters of this state shall be as follows:

31.2(1) *State aids to navigation.*

a. A red-topped white buoy, red buoy or sign shall indicate that side of a channel to be kept to the right of a vessel when entering the channel from the main water body or when proceeding upstream.

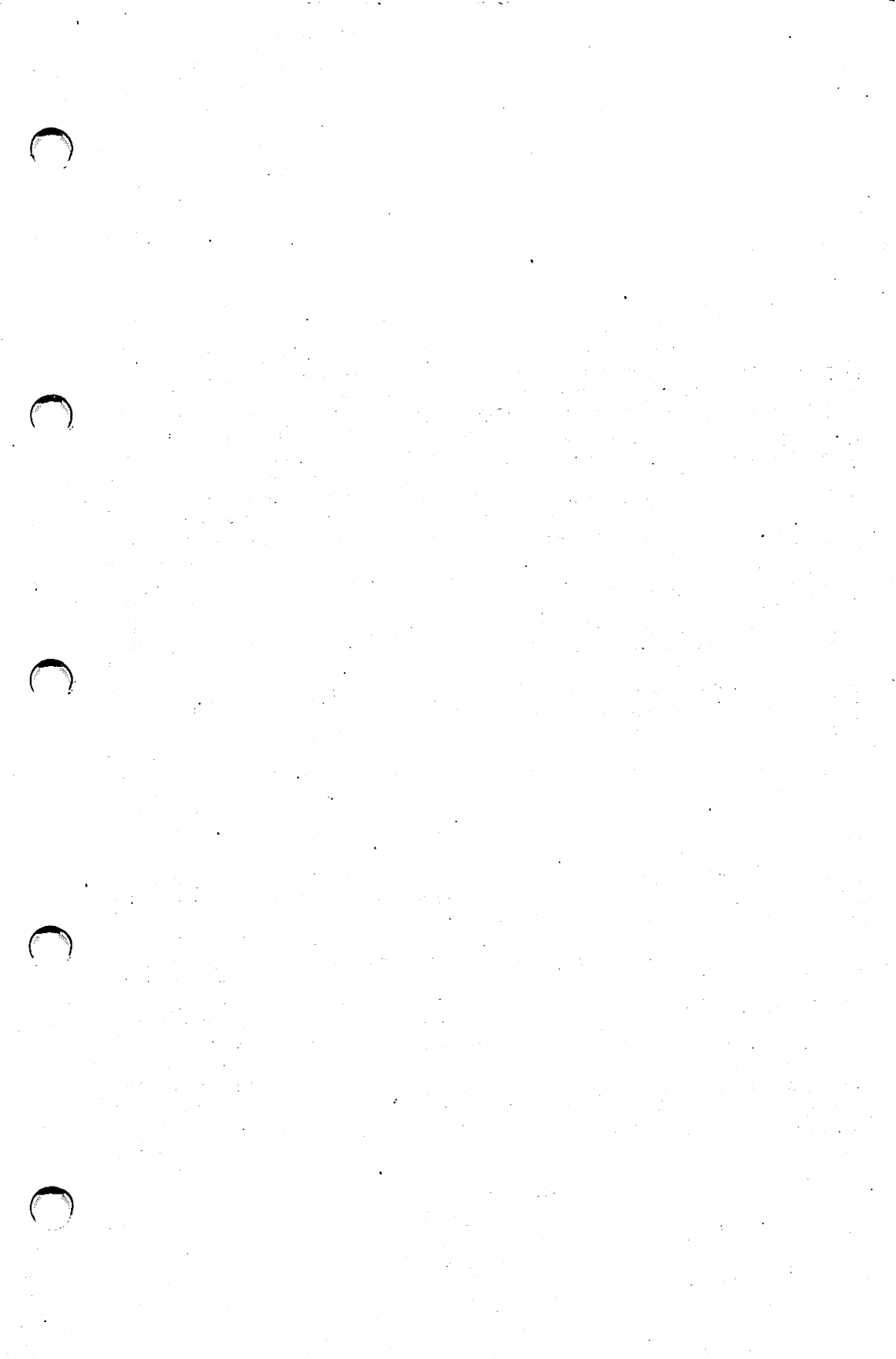
b. A black-topped white buoy, black buoy or sign shall indicate that side of a channel to be kept to the left of a vessel when entering the channel from the main water body or when proceeding upstream.

c. A black and white vertically striped buoy or sign shall indicate the center of a navigable waterway.

d. Buoys or signs in "*a*" and "*b*" above shall normally be used in pairs and only for the purpose of marking a clearly defined channel.

e. A red and white vertically striped buoy or sign shall indicate boats should not pass between buoy and nearest shore.

f. State aids to navigation shall be numbered or lettered for identification. Red buoys and signs marking channels shall be identified with even numbers, and black buoys and signs marking channels shall be identified with odd numbers, the numbers increasing from the main water body or proceeding upstream. Buoys and signs indicating the center of a waterway will be identified by letters of the alphabet. All numbers and letters used to identify state aids to navigation shall be preceded by the letters "IA".



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57.1(1) "*Accommodation*" means the provision of lodging, including sleeping, dining, and living areas.

57.1(2) "*Administrator*" means a person approved and certified by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such individual has an ownership interest in such facility, and whether or not his functions and duties are shared with one or more individuals.

57.1(3) "*Alcoholic*" means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in section 125.2, Code of Iowa, 1975.

57.1(4) "*Ambulatory*" means the condition of a person who immediately and without aid of another is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

57.1(5) "*Basement*" means that part of a building where the finish floor is more than thirty inches below the finish grade of the building.

57.1(6) "*Board*" means the regular provision of meals.

57.1(7) "*Communicable disease*" means a disease caused by the presence of viruses or microbial agents within a person's body, which agents may be transmitted either directly or indirectly to other persons.

57.1(8) "*Department*" means the state department of health.

57.1(9) "*Distinct part*" means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

57.1(10) "*Drug addiction*" means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in chapter 204, Code of Iowa, 1973.

57.1(11) "*Medication*" means any drug including over-the-counter substances ordered and administered under the direction of the physician.

57.1(12) "*Nonambulatory*" means the condition of a person who immediately and without aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

57.1(13) "*Personal care*" means assistance with the activities of daily living which the recipient can provide for himself only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

57.1(14) "*Program of care*" means all services being provided for a resident in a health care facility.

57.1(15) "*Rate*" means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

470—57.2(135C) Variances. Variances from these rules may be granted by the commissioner for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility. Variances will be reviewed by the commissioner at his discretion.

57.2(1) To request a variance, the licensee must:

- a. Apply for variance in writing on a form provided by the department;
- b. Cite the rule(s) from which a variance is desired;
- c. State why compliance with the rule(s) cannot be accomplished;
- d. Explain alternate arrangements or compensating circumstances which justify the variance;
- e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

57.2(2) Upon receipt of a request for variance, the commissioner will:

- a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;

b. If the request meets the above criteria, evaluate the alternate arrangements of compensating circumstances against the requirement of the rules;

c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;

d. Consult with the applicant if additional information is required.

57.2(3) Based upon these studies, approval of the variance will be either granted or denied within forty-five days of receipt.

470—57.3(135C) Application for licensure.

57.3(1) *Initial application.* In order to obtain a residential care facility license, the applicant must:

a. Meet the physical standards as contained in 57.21(135C), 57.25(135C), 57.27(135C), 57.28(135C), 57.30(135C), 57.31(135C), and 57.33(135C) of these rules;

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

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

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

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

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

g. Meet the requirements of a residential care facility for which licensure application is made;

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

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

57.3(2) *Renewal application.* In order to obtain a renewal of the residential care facility license, the applicant must:

a. Submit the completed application form thirty days prior to annual license renewal date of residential care facility license;

b. Submit the statutory license fee for a residential care facility with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or his deputy as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the resume to reflect any changes in the resident care program or other services.

470—57.4(135C) Special categories. Special variations and considerations may be granted a residential care facility which is operated for people who have special problems such as retardation, physical disabilities, have a physical or mental dependency or a condition in common which can best be treated in a specialized environment under an approved program of care commensurate with the needs of the residents of the facility. Criteria for these specialized programs shall be established by the department based on the resume of programs and services furnished by the facility and the numbers and qualifications of the administrator and staff providing these services in the facility.

57.4(1) Such a facility shall be provided with the kind of equipment, numbers of qualified staff, and operated in such fashion as to meet the requirements of the department.

57.4(2) On approval of the department, the state fire marshal, the department of social services, or other appropriate agencies, other variations from the established rules and regulations and standards for a licensed health care facility of that category may be made

as is necessary to successfully implement the specialized program, providing that it does not endanger the health, safety, or welfare of any resident and that alternate means to effect the same degree of protection shall be used when such variances are permitted.

470—57.5(135C) General requirements.

57.5(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

57.5(2) The license shall be valid only in the possession of the licensee to whom it is issued.

57.5(3) The posted license shall accurately reflect the current status of the residential care facility. (III)

57.5(4) Licenses expire one year after the date of issuance or as indicated on the license.

470—57.6(135C) Notifications required by the department. The department shall be notified:

57.6(1) Within forty-eight hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents may be admitted until the minimum staffing requirements are achieved; (III)

57.6(2) Of any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

57.6(3) Thirty days before addition, alteration, or new construction is begun in the residential care facility or on the premises; (III)

57.6(4) Thirty days in advance of closure of the residential care facility; (III)

57.6(5) Of any change in administrator; (III)

57.6(6) When any change in the category of license is sought; (III)

57.6(7) Prior to the purchase, transfer, assignment, or lease of a residential care facility, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least thirty days before the sale, transfer, assignment, or lease if completed; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee; (III)

57.6(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a residential care facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

470—57.7(135C) Hearings. The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the district court and shall be paid by the party to the proceeding at whose request the subpoena is issued.

470—57.8(135C) Licenses for distinct parts.

57.8(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

57.8(2) The following requirements shall be met for a separate licensing of a distinct part:

- a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)
- b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought.
- c. The distinct part must be operationally and financially feasible.
- d. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)
- e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

470—57.9(135C) Administrator. Each residential care facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (III)

57.9(1) The administrator shall be at least eighteen years of age and shall have a high school diploma or equivalent. (III) In addition, this person shall meet at least one of the following conditions:

- a. Be a licensed nursing home administrator, or; (III)
- b. Have completed a one-year educational training program approved by the department for residential care facility administrators, or; (III)
- c. Have two years of supervised experience in a residential care facility, at least six months of which was in an administrative capacity. (III)

57.9(2) The administrator may act as an administrator for not more than two residential care facilities. (II)

- a. The distance between the two facilities shall be no greater than fifty miles. (II)
- b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)
- c. The administrator may be responsible for no more than one hundred fifty beds in total if he is an administrator of more than one facility. (II)

57.9(3) The licensee may be the approved administrator providing he meets the requirements set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

57.9(4) A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace him provided the department has been notified prior to the date of the administrator's appointment. (III)

57.9(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

- a. Be knowledgeable of the operation of the facility; (III)
- b. Have access to records concerned with the operation of the facility; (III)
- c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)
- d. Be at least eighteen years of age; (III)
- e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)
- f. Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

470—57.10(135C) Administration.

57.10(1) The licensee shall:

- a. Assume the responsibility for the overall operation of the residential care facility; (III)
- b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the residential care facility. (III)

57.10(2) The administrator shall:

a. Be responsible for the selection and direction of competent personnel who provide services for the resident care program. (III)

b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs either approved or provided by the department; (III)

c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)

d. Make available the residential care facility payroll records for departmental review as needed. (III)

470—57.11(135C) General policies.

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

57.11(2) There shall be a written job description developed for each category of worker in facilities of more than fifteen beds. The job description shall include title of job, job summary, age range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

57.11(3) Health examinations for all personnel shall be done at the commencement of employment and thereafter at least yearly. (III)

57.11(4) Health certificates for all employees shall be available for review. (III)

57.11(5) Health examinations shall be in sufficient detail to determine freedom from:

a. Clinical evidence of any disease in a communicable form; (III)

b. Boils or infected wounds; (III)

c. Acute or chronic inflammatory condition of respiratory system. A chest X-ray or tuberculin test is required annually. A positive skin test requires a chest X-ray; (III)

d. Evidence of a carrier state of an intestinal infection. Food handlers and nursing staff specifically shall be required to report disabilities and illnesses, especially boils, infected wounds, rashes, sores, acute respiratory infections and intestinal infections. (III)

57.11(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident, which includes the individuals to be contacted in case of emergency. (III)

57.11(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

57.11(8) The residential care facility shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

57.11(9) Each facility licensed as a residential care facility shall provide an organized continuous twenty-four-hour program of care commensurate with the needs of the residents of the home and under the direction of an administrator whose combined training and supervisory experience is such as to ensure adequate and competent care. (III)

470—57.12(135C) Personnel.

57.12(1) General qualifications.

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a residential care facility. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a residential care facility. (II)

c. No person with a communicable disease shall be allowed to provide services in a residential care facility. (II, III)

d. Return to duty by personnel who have been diagnosed with a communicable disease shall be subject to a physician's written approval. (III)

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

f. Residents shall not be required to work in the facility without remuneration. If work programs for residents are carried out, they shall be based on the needs of the individual resident and in accordance with physician's orders. (II, III)

g. Persons carried on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. Work programs for residents shall be done only in accordance with physician's orders. (III)

57.12(2) Supervision and staffing.

a. The department shall establish on an individual facility basis the numbers and qualifications of the staff required in a residential care facility using as its criteria the services being offered and the needs of the resident. (II, III) A residential care facility shall provide the following minimum staffing ratio of personal care staff:

(1) Days - 1:25 or less (II, III)

(2) Evenings - 1:35 or less (II,III)

(3) Nights - 1:45 or less (II,III)

b. Personnel in a residential care facility shall provide twenty-four-hour coverage for residential care services. Personnel shall be up and dressed at all times in facilities over fifteen beds. (II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (II,III)

d. Physician's orders shall be implemented by qualified personnel. (II, III)

470—57.13(135C) Admission, transfer, and discharge.

57.13(1) General admission policies.

a. No resident shall be admitted to or retained in a residential care facility who is in need of greater services than the facility can provide. (II,III)

b. No residential care facility shall admit more residents than the number of beds for which it is licensed. (II,III)

c. There shall be no more beds erected than is stipulated on the license. (II,III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II,III)

e. The admission of a resident to a residential care facility shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or his legal representative. (III)

f. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the residential care facility as required by these rules. (III)

g. A residential care facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. A residential care facility shall keep complete and accurate records of all funds and other effects and property of its residents received by it for safekeeping. (III)

i. Funds or properties received by the residential care facility, belonging to or due a resident, expendable for his account, shall be trust funds. (III)

(1) Trust funds shall be kept separate from the funds and property of the residential care facility. (III)

(2) A trust fund shall be specifically credited to this resident and expended only for this resident. (III)

(3) A residential care facility shall furnish for any resident upon request, a complete and certified statement of all funds or other properties which have been entrusted to the management of the residential care facility for that resident. This statement may be requested by the resident, his legal representative, any governmental unit contributing funds or other property to the account of the resident, or private charitable agency contributing funds or other property to the account of the resident. (III)

j. Infants and children under the age of sixteen shall not be admitted to health care facilities for adults unless give prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity. (III)

l. Upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of such county care facility. Such administrator shall serve as conservator or guardian or both without fee. The administrator may establish either separate or common bank accounts for cash funds of such resident wards. (III)

57.13(2) Discharge or transfer.

a. Prior notification shall be made to the next of kin, legal, representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the residential care facility for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such transfer or discharge. (II,III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 57.16(1) of these rules will accompany the resident. (II,III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II,III)

470—57.14(135C) Contracts. Each contract shall:

57.14(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

57.14(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subsection 2; (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services such as barber, beautician, etc. (III)

57.14(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to his or her current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator; (III)

57.14(4) Include the total fee to be charged initially to the specific resident; (III)

57.14(5) State the conditions whereby the facility may make adjustments to their overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least thirty days prior to the effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must be also given within a reasonable time, not to exceed one week listing specifically the adjustments made. (III)

57.14(6) State the terms of agreement in regard to refund of all advance payments, in the event of transfer, death, voluntary, or involuntary discharge; (III)

57.14(7) State the terms of agreement concerning the holding and charging for a bed in the event of temporary absence of the resident; (III)

57.14(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

57.14(9) State the conditions of voluntary discharge or transfer; (III)

57.14(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

57.14(11) Each party shall receive a copy of the signed contract. (III)

470—57.15(135C) Medical services.

57.15(1) Each resident in a residential care facility shall have a designated licensed physician, who may be called when needed. (III)

57.15(2) Each resident admitted to a residential care facility shall have had a physical examination prior to admission. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (III)

57.15(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II,III)

57.15(4) Each resident shall be permitted free choice of a physician and pharmacist. (III)

57.15(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (III)

57.15(6) Each resident shall be visited by or shall visit his physician at least once each year. (III)

57.15(7) Residents shall be admitted to a residential care facility only on a written order signed by a physician certifying that the individual being admitted requires no more than personal care and supervision but does not require nursing care. (III)

470—57.16(135C) Records.

57.16(1) *Resident record.* The licensee shall keep a permanent record on all residents admitted to a residential care facility with all entries current, dated, and signed. (III) The record shall include:

a. Name and previous address of resident; (III)

b. Birthdate, sex, and marital status of resident; (III)

c. Church affiliation; (III)

d. Physician's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address, and telephone number of next of kin or legal representative; (III)

- g. Name, address, and telephone number of person to be notified in case of emergency; (III)
 - h. Mortician's name, telephone number, and address; (III)
 - i. Pharmacist's name, telephone number, and address; (III)
 - j. Physical examination and medical history; (III)
 - k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
 - l. Physician's orders for medication, treatments, and diet in writing and signed by the physician; (III)
 - m. A notation of yearly or other visits to physician or other professional services; (III)
 - n. Any change in the resident's condition; (II,III)
 - o. If the physician has certified that the resident is capable of taking his prescribed medications, the administrator shall require residents to keep him advised of current medications, treatments, and diet. The administrator shall keep a listing of medications, treatments, and diet prescribed by the physician for each resident; (III)
 - p. If the physician has certified that the resident is not capable of taking his prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration; (II)
 - q. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II,III)
 - r. A notation describing condition on admission, transfer, and discharge; (III)
 - s. In the event of the death of a resident, a death record shall be completed, including the physician's signature and disposition of the body. A notation shall be made on the resident record of the notification of the family; (III)
 - t. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)
 - u. Disposition of valuables. (III)
- 57.16(2) Incident record.**
- a. Each residential care facility shall maintain an incident record report and shall have available incident report forms. (III)
 - b. Report of incidents shall be in detail on a printed incident report form. (III)
 - c. The person in charge at the time of the incident shall oversee the preparation and sign the incident report. (III)
 - d. The report shall cover all accidents whether there is apparent injury or where hidden injury may have occurred. (III)
 - e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)
 - f. A copy of the incident report shall be kept on file in the facility. (III)
- 57.16(3) Retention of records.**
- a. Records shall be retained in the facility for five years following termination of services. (III)
 - b. Records shall be retained within the facility upon change of ownership. (III)
 - c. The resident's records shall be kept confidential and shall be revealed only to persons authorized by law. (III)
 - d. The resident's record shall be released to the individual's physician when the facility ceases to operate. (III)
- 57.16(4) Reports to the department.** The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)
- 57.16(5) Personnel record.**
- a. An employment record shall be kept for each employee consisting of the following information: Name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

470—57.17(135C) Resident care and personal services.

57.17(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

57.17(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II,III)

57.17(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

57.17(4) Residents shall receive kind and considerate care at all times and shall not be abused physically, mentally, or verbally in any way. (II)

57.17(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

57.17(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

57.17(7) Residents shall not have their personal lives regulated or controlled beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules and regulations. However, residents shall be encouraged to participate in the recreational programs. (III)

57.17(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of chapter 135C, Code of Iowa. (II,III)

57.17(9) Residents shall be required to bathe at least twice a week. (II,III)

470—57.18(135C) Rights of residents.

57.18(1) Visiting.

a. Visitors shall be permitted to visit residents at any reasonable time. (III)

b. Each resident shall be permitted to have privacy with his visitors or the representative of the agency who has responsibility for his care. (III)

57.18(2) Religion.

a. A resident's rights to his own religious convictions or the absence of them shall not be infringed upon. (III)

b. A resident's request to see a clergyman shall be honored. (III)

c. The facility shall attempt to arrange for transportation for residents who desire to attend church services at no additional cost to the resident. (III)

57.18(3) Mail.

a. Residents shall receive their mail unopened. (III)

b. Outgoing mail shall not be censored, controlled, or restricted unless written authorization signed by the resident's legal guardian is on file in the facility. (III)

c. Assistance with correspondence shall be provided when requested. (II)

57.18(4) Telephone. A telephone shall be accessible to the residents within the facility to make personal calls. (III)

57.18(5) Access.

a. Living room and recreational areas shall be freely accessible to the residents at all reasonable times. (III)

b. Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing for refusing such permission. (III)

470—57.19(135C) Drugs.

57.19(1) Drug storage.

a. Residents who have been certified in writing by the physician as capable of taking

their own medications, may retain these medications in their bedroom but locked storage must be provided. (III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) A cabinet with a lock shall be provided which can be used for storage of drugs, solutions, and prescriptions; (III)

(2) A bathroom shall not be used for drug storage; (III)

(3) The drug storage cabinet shall be kept locked; (III)

(4) Schedule II drugs, as defined by chapter 204, Code of Iowa shall be kept in a locked box within the locked medication cabinet; (II)

(5) The medicine cabinet key shall be in the possession of the employee charged with the responsibility of administering medications. (II,III)

(6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items; (III)

(7) Drugs for external use shall be stored separately from drugs for internal use; (III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons; (I,II)

(9) The drug cabinet shall have a work counter. Both the counter and cabinet shall be well-lighted; (III)

(10) Running water shall be available in the room in which the medicine cabinet is located or in an adjacent room; (III)

(11) Inspection of drug storage condition shall be made by the administrator and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: Expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. Bulk supplies of prescription drugs shall not be kept in a residential care facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

57.19(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (II)

b. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. The medication for each resident shall be kept or stored in the original containers. (II,III)

d. When a resident is discharged or leaves the facility, the unused prescription shall be sent with him or with a legal representative only upon the written order of a physician. (II)

e. Unused prescription drugs prescribed for residents who have died shall be destroyed by the person in charge with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the attending physician. (II,III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

h. Instructions shall be requested of the Iowa Board of Pharmacy Examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

i. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident's current medications. Discontinued drugs shall be destroyed by a responsible person with a witness and notation made to that effect or returned to the pharmacist for destruction. (II,III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The personal physician of the resident, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II,III)

k. No resident shall be allowed to keep in his possession any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

57.19(3) Drug administration.

a. A properly trained person shall be charged with the responsibility of administering medications. This person shall have completed the state-approved course for training of individuals charged with the administration of nonparental medications which meets guidelines adopted by the department and other appropriate agencies. (II)

b. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) Also unless the unit dose system is used, medications shall be prepared on the same shift of the same day that they are administered. (II)

c. Controlled drugs, as defined in chapter 204, Code of Iowa, and injectable medications shall not be administered by anyone other than a qualified nurse or physician. (II)

d. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

e. The unit dose system may be used by the facility.

470—57.20(135C) Dental services.

57.20(1) The residential care facility personnel shall assist residents to obtain regular and emergency dental services. (III)

57.20(2) Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)

57.20(3) Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)

57.20(4) All dental reports or progress notes shall be included in the clinical record. (III)

57.20(5) Personal care staff shall assist the resident in carrying out dentist's recommendations. (III)

57.20(6) Dentists shall be asked to participate in the in-service program of the facility. (III)

470—57.21(135C) Dietary.

57.21(1) Dietary staffing.

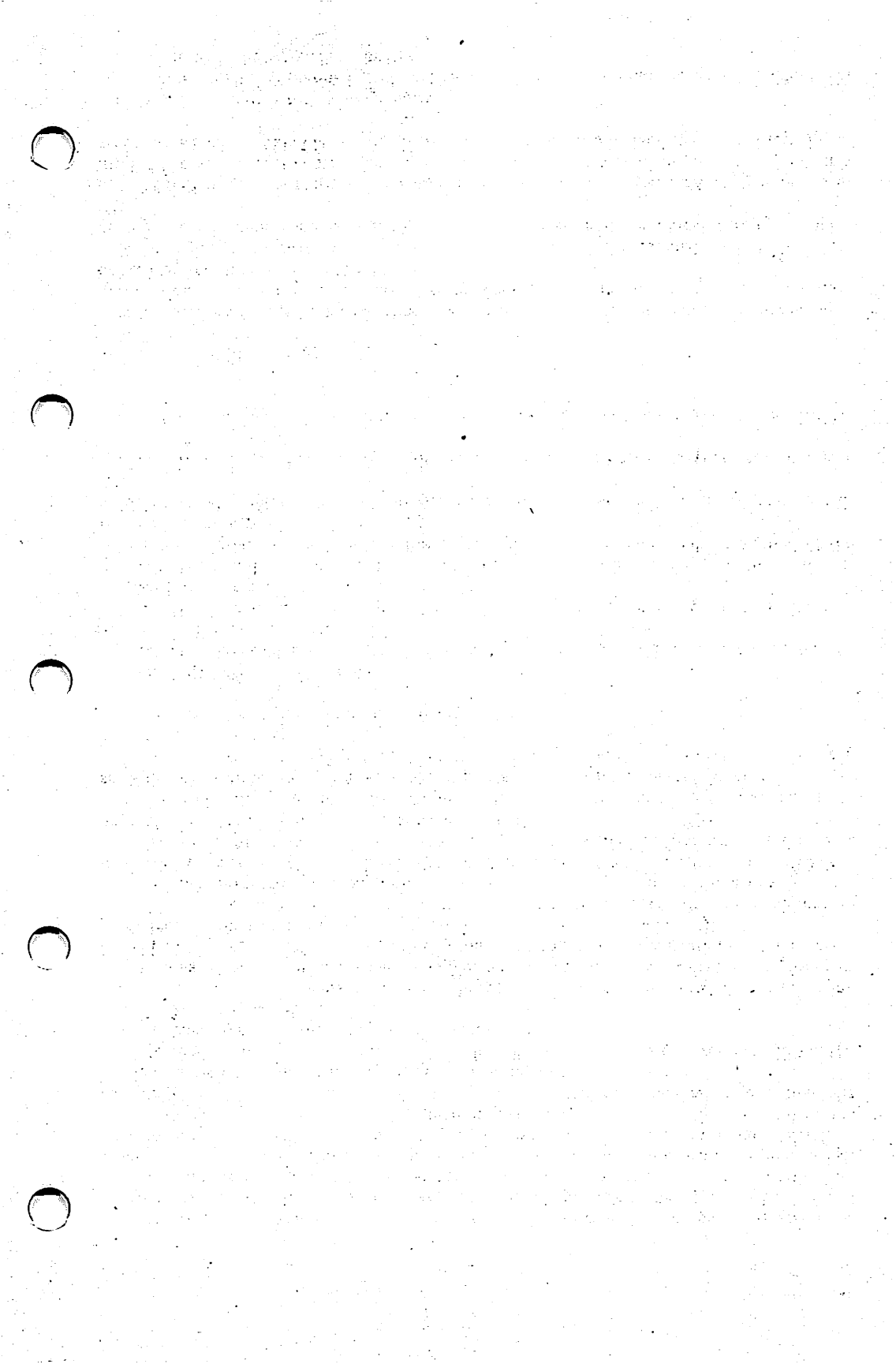
a. In facilities licensed for over fifteen beds, persons in charge of meal planning and food preparation shall complete the home study course on sanitation and food preparation offered by the department. (III)

b. In facilities licensed for over fifteen beds, food service personnel shall be on duty during a twelve-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area in facilities over fifteen beds. (III)

57.21(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician's orders. (II)



b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) Recommended daily dietary allowances are:

- (1) Milk - two or more cups served as beverage or used in cooking;
- (2) Meat group - two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;
- (3) Vegetable and fruit group - four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;
- (4) Bread and cereal group - four or more servings of whole-grain, enriched or restored;
- (5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

c. At least three meals or their equivalent shall be served daily, at regular hours. (II)
(1) There shall be no more than a fourteen-hour span between substantial evening meal and breakfast. (II,III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II,III)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for thirty days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

57.21(3) Dietary storage, food preparation, and service.

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II,III)

b. The use of foods from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. All perishable or potentially hazardous food shall be stored at safe temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

d. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

e. Supplies of staple foods for a minimum of a one-week period and or perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the nutrition section of the department of health. (II,III)

f. Table service shall be attractive. Dishes shall be free of cracks, chips, and stains. (III)

g. If family style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

h. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

57.21(4) Sanitation in food preparation area.

a. "Food Service Sanitation Manual", 1975, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C., shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with food service sanitation.

b. Residents shall not be allowed in the food preparation area. (III)

c. In facilities serving for over fifteen beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All foods, while being stored, prepared, displayed, served, or transported shall be protected against contamination from dust, flies, rodents, and other vermin. (II,III)

e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II,III)

f. All appliances and work areas shall be kept clean. (III)

g. There shall be written procedures established for cleaning all work and serving areas in facilities over fifteen beds. (III)

h. A schedule for duties to be performed daily shall be posted in each food area. (III)

i. All cooking stoves in facilities of fifteen or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)

j. Spillage and breakage shall be cleaned up immediately. (III)

k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)

l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)

m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. (III)

n. There shall be no washing, ironing, sorting or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leak-proof containers. (III)

o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

p. There shall be no animals or birds in the food preparation area. (III)

q. No dishes or cooking utensils shall be towel dried. (III)

r. In facilities of over fifteen beds directions for the dishwashing procedure shall be posted and available to all kitchen personnel. (III)

s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (76°C) to 180°F (82°C). The machine shall be provided with temperature gauges. (III)

t. The washing and sanitizing of dishes and utensils shall meet approved sanitation procedures and practices. A mechanical dishwashing machine of three-compartment sink shall be used for washing dishes; a booster heater for the third compartment or sanitizing agent shall be used. (III)

u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean dry place protected from flies, splashes, dust, and other contaminants. (III)

v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

w. Dishes, silverware, and cooking utensils shall be properly cleaned by prerinsing or scraping, washing, sanitizing, and air-drying. (III)

57.21(5) Hygiene of food service personnel.

a. Food service personnel shall be free of communicable diseases and practice hygienic food handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II,III)

b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area. (III)

c. Hairnets shall be worn by all food service personnel. Individuals with beards shall provide for total enclosure of facial hair. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good handwashing techniques. A hand-wash basin shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

57.21(6) Food and drink. All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II,III)

470—57.22(135C) Social services program.

57.22(1) The administrator or his designee shall be responsible for developing a written, organized orientation program for all residents. (III)

57.22(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

57.22(3) The social services plan, including specific goals and regular evaluation of progress, shall be incorporated into the overall plan of care. (III)

470—57.23(135C) Resident activities program.

57.23(1) Each residential care facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The activity program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)

57.23(2) Co-ordination of activities program.

a. Each residential care facility with over fifteen beds shall employ a person to direct the activities program. (III)

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

c. The activity co-ordinator shall have completed the activity co-ordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity co-ordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity co-ordinator is absent during scheduled working hours. (III)

57.23(3) Duties of activity co-ordinator. The activity co-ordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Co-ordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Individual resident progress notes recorded at regular intervals (at least every two months); (III)

(3) Monthly calendars, prepared in advance. (III)

d. Co-ordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

57.23(4) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: Books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

470—57.24(135C) Care review committee. Each facility shall establish a care review committee in accordance with section 135C.25, Code of Iowa, which shall operate within the scope of these rules and regulations for health care facilities. (III)

57.24(1) Purpose of care review committee.

a. The committee shall represent the rights of the consumer in the facility for determination of appropriate care, of services available in the facility, and the determination of any discriminative practices. (III)

b. The committee shall consider the needs of the residents in respect to the services the facility is authorized to render. (III)

c. The committee shall consist of at least three members and no more than five. (III)

d. The area wide health planning council shall appoint the members of the committee from individuals who have an interest in the provision of health care services and protection of dependent persons. After failure of the area wide health planning council to appoint members to the care review committee within the time unit specified in the Code, the commissioner and facility administrator shall act under the same guidelines concerning who shall be appointed and within the specified time limits in the Code. (III)

e. Membership of the care review committee shall be evaluated by the department prior to renewal of license each year. The department shall be notified in writing of all appointments to care review committees including names and addresses, within thirty days of an appointment. (III)

f. A care review committee found to be functioning unsatisfactorily by the department may be required to be replaced. (III)

g. The members of the care review committee shall not have an ownership interest in the facility, nor be employed by the facility, nor be related to an employee or licensee, nor be a public employee involved with the sponsoring or placement of residents, nor be one who inspects or otherwise evaluates the facility or residents. (III)

h. The committee shall elect a chairperson and secretary (at its first meeting) and shall meet at least quarterly and on such occasions as required to accomplish its purposes. (III)

i. Information concerning the operation of the facility and residents residing therein is a privileged communication and shall not be disclosed publicly in such manner as to identify individuals or the facility except in accordance with section 135C.19, Code of Iowa. (III)

j. The committee shall be made acquainted and knowledgeable by the administrator of the rules and regulations of the department governing the operation of the facility and the services it is licensed to provide. (III)

57.24(2) Responsibilities of the committee.

a. The committee shall determine whether the facility and the contract for services and program of care are as agreed upon in the contract. (III)

b. The committee may function for more than one facility. (III)

c. Each resident shall be reviewed on at least an annual basis. (III)

practices throughout the facility. In facilities over fifteen beds, this program shall be established in writing and available for review by the department. (III)

57.27(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

57.27(3) Draperies and furniture shall be clean and in good repair. (III)

57.27(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

57.27(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the national electric code. (III)

57.27(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

57.27(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (III)

57.27(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

57.27(9) The facility shall be kept free of flies, other insects, and rodents. (III)

57.27(10) Janitor closet.

a. Facilities shall be provided with storage for cleaning equipment, supplies, and utensils. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for over fifteen beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. (III)

470—57.28(135C) Laundry.

57.28(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

57.28(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

57.28(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

57.28(4) Residents' personal laundry shall be marked with an identification. (III)

57.28(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

57.28(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lighted area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities of over fifteen beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

470—57.29(135C) Garbage and waste disposal.

57.29(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

57.29(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

57.29(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

57.29(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

57.29(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

470—57.30(135C) Buildings, furnishings, and equipment.**57.30(1) Buildings—general requirements.**

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II,III)

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-fourth inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of residents' clothing. (III)

j. All stairways in resident occupied areas shall have substantial handrails on both sides. (III)

k. Each stairway shall have protective barriers. (III)

l. Screens of sixteen mesh per square inch shall be provided at all openings. (III)

m. Screen doors shall swing outward and be self-closing. At the discretion of the state fire marshal, screens for fire doors may swing in. (III)

n. All resident rooms shall have a door. (III)

o. All rooms in resident occupied areas shall have general lighting switched at the entrance to each room. (III)

57.30(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)

c. Upholstery materials shall be moisture and soil resistant, except on furniture provided by the resident and the property of the resident. (III)

d. Night lights shall be provided in corridors, at stairways, attendant's stations and residents' bedrooms, and hazardous areas with no less than one foot-candle throughout the area at all times. (III)

57.30(3) Dining and living rooms.

a. Every facility over fifteen beds shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 57.30(3) "e" of the rules are met. (III)

e. Multi-purpose rooms. When space is provided for multi-purpose dining and activities and recreational purposes, the area shall total at least thirty square feet per licensed bed for the first one-hundred beds and twenty-seven square feet per licensed bed for all beds in excess of one hundred. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment.
(III)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably furnished. (III)

(3) When space is provided to be used only for activities and recreational purposes, the area shall be at least fifteen square feet per licensed bed. At least fifty percent of the required area must be in one room. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) When space is provided to be used only for dining, the area shall total at least fifteen square feet per licensed bed. (III)

57.30(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: Casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. There shall be a wardrobe or closet in each resident's room. Minimum clear dimensions shall be 1' 10" deep by 1' 8" wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for his needs. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in his room. (III)

l. Each room shall have sufficient accessible mirrors to serve residents' needs. (III)

m. Usable floor space of a room shall be no less than eight feet in any major dimension. (III)

n. Bedrooms shall have a minimum of eighty square feet of usable floor space per bed. (III)

o. There shall be no more than four residents per room. (III)

p. Each resident room shall be provided with light and ventilation by means of a window or windows with an area equal to one-eighth of the total floor area. The windows shall be openable. (III)

57.30(5) Bath and toilet facilities.

a. Provision shall be made for bars to hold individual towels and washcloths. (III)

b. All lavatories shall have paper towel dispensers and an available supply of soap. (III)

c. Minimum numbers of toilet and bath facilities shall be one lavatory, one toilet for each ten residents, and one tub or shower for each fifteen residents or fraction thereof. (III)

d. There shall be a minimum of one bathroom with tub or shower, toilet stool and lavatory on each floor in multistory buildings for facilities licensed for over fifteen beds. Separate toilets for the sexes shall be provided. (III)

e. Grab bars shall be provided at all toilet stools, tubs, and showers. Grab bars, accessories, and anchorage shall have sufficient strength to sustain a deadweight of two hundred fifty pounds for five minutes. (III)

f. Each toilet room shall have a door. (III)

g. All toilet, bath, and shower facilities shall be supplied with adequate safety devices appropriate to the needs of the individual residents. Raised toilet seats shall be available for residents who are aged or infirm. (III)

h. Toilet and bath facilities shall have an aggregate outside window area of at least four square feet. Facilities having a system of mechanical ventilation are exempt from this regulation. (III)

i. Every facility shall provide a toilet and lavatory with grab bars for the public and staff. (III)

57.30(6) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

57.30(7) Water supply.

a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. The temperature of the hot water to the resident lavatories, baths, and showers shall not exceed 110°F (43°C). A 5° variable shall be acceptable. (III)

g. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department. (III)

57.30(8) Sewage system.

a. Sewage shall be collected and disposed of in a manner approved by the department. Disposal into a municipal system will be considered as meeting this requirement. (III)

b. Private sewage systems shall be surveyed and shall conform to the rules and regulations of the department of environmental quality, state health department, and the natural resources council. (III)

c. Every facility shall have an interior plumbing system complete with flushing device. (III)

57.30(9) Attendant's station.

a. In facilities over fifteen beds, an attendant's station shall be provided which is centrally located in the resident area. (III)

b. The station shall contain a minimum of forty square feet. It shall have a well-lighted desk with the necessary equipment for the keeping of required records and supplies. (III)

470—57.31(135C) Family and employee accommodations.

57.31(1) Children shall not be allowed into the service areas. (III)

57.31(2) The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

57.31(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

57.31(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

57.31(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

470—57.32(135C) **Animals.** No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

470—57.33(135C) **Environment and grounds.**

57.33(1) A residential care facility shall be constructed in a neighborhood free from excessive noise, dirt, polluted, or odorous air, or similar disturbances. (III)

57.33(2) There shall be an area available for outdoor activities calculated at twenty-five square feet per licensed bed. (III) Open air porches may be included in meeting such requirements.

470—57.34(135C) **Supplies.**

57.34(1) *Linen supplies.*

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom of odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

57.34(2) *First aid kit.* A first aid emergency kit shall be available on each floor in every facility. (II,III)

57.34(3) *General supplies.*

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

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CHAPTER 58 INTERMEDIATE CARE FACILITIES

470—58.1(135C) **Definitions.** For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in section 135C.1 of the Code shall be considered to be incorporated verbatim in the rules. The use of the words "shall" and "must" indicate those standards are mandatory. The use of the words "should" and "could" indicate those standards are recommended.

58.1(1) *"Accommodation"* means the provision of lodging, including sleeping, dining, and living areas.

58.1(2) *"Administrator"* means a person licensed pursuant to chapter 147, Code of Iowa, who administers, manages, supervises, and is in general administrative charge of an intermediate care facility, whether or not such individual has an ownership interest in such facility, and whether or not his functions and duties are shared with one or more individuals.

58.1(3) *"Alcoholic"* means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in section 125.2, Code of Iowa, 1975.

58.1(4) "*Ambulatory*" means the condition of a person who immediately and without aid of another is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

58.1(5) "*Basement*" means that part of a building where the finish floor is more than thirty inches below the finish grade of the building.

58.1(6) "*Board*" means the regular provision of meals.

58.1(7) "*Chairfast*" means capable of maintaining a sitting position but lacking the capacity of bearing own weight, even with the aid of a mechanical device or another individual.

58.1(8) "*Communicable disease*" means a disease caused by the presence of viruses or microbial agents within a person's body, which agents may be transmitted either directly or indirectly to other persons.

58.1(9) "*Department*" means the state department of health.

58.1(10) "*Distinct part*" means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

58.1(11) "*Drug addiction*" means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in chapter 204, Code of Iowa, 1973.

58.1(12) "*Medication*" means any drug including over-the-counter substances ordered and administered under the direction of the physician.

58.1(13) "*Non-ambulatory*" means the condition of a person who immediately and without aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

58.1(14) "*Protective devices*" means the measures taken to control a resident's physical activity for his own protection or for the protection of others.

58.1(15) "*Personal care*" means assistance with the activities of daily living which the recipient can provide for himself only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

58.1(16) "*Program of care*" means all services being provided for a resident in a health care facility.

58.1(17) "*Qualified nurse*" means a registered nurse or licensed practical nurse, as defined in chapter 152 of the Code.

58.1(18) "*Rate*" means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

470—58.2(135C) Variances. Variances from these rules may be granted by the commissioner for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual intermediate care facility. Variances will be reviewed by the commissioner at his discretion.

58.2(1) To request a variance, the licensee must:

- a. Apply for variance in writing on a form provided by the department;
- b. Cite the rule(s) from which a variance is desired;
- c. State why compliance with the rule(s) cannot be accomplished;
- d. Explain alternate arrangements or compensating circumstances which justify the variance;
- e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

58.2(2) Upon receipt of a request for variance, the commissioner will:

- a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;

b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;

c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;

d. Consult with the applicant if additional information is required.

58.2(3) Based upon these studies, approval of the variance will be either granted or denied within forty-five days of receipt.

470—58.3(135C) Application for licensure.

58.3(1) *Initial application.* In order to obtain an intermediate care facility license, the applicant must:

a. Meet the physical standards as contained in 58.24(135C), 58.28(135C), 58.32(135C), 58.33(135C), 58.35(135C), 58.36(135C), and chapter 61 of these rules;

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

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

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

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

f. Submit the statutory fee for an intermediate care facility license;

g. Meet the requirements of an intermediate care facility for which licensure application is made;

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

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

58.3(2) *Renewal application.* In order to obtain a renewal of the intermediate care facility license, the applicant must:

a. Submit the completed application form thirty days prior to annual license renewal date of intermediate care facility license;

b. Submit the statutory license fee for an intermediate care facility with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or his deputy as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the resume to reflect any changes in the resident care program or other services.

470—58.4(135C) General requirements.

58.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

58.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

58.4(3) The posted license shall accurately reflect the current status of the intermediate care facility. (III)

58.4(4) Licenses expire one year after the date of issuance or as indicated on the license.

58.4(5) No intermediate care facility shall be licensed for more beds than have been approved by the Health Facilities Construction Review Committee. (III)

470—58.5(135C) Notifications required by the department. The department shall be notified:

58.5(1) Within forty-eight hours, by letter, of any reduction or loss of nursing and/or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

58.5(2) Of any proposed change in the intermediate care facility's functional operation or addition or deletion of required services; (III)

58.5(3) Thirty days before addition, alteration, or new construction is begun in the intermediate care facility or on the premises; (III)

58.5(4) Thirty days in advance of closure of the intermediate care facility; (III)

58.5(5) Of any change in administrator; (III)

58.5(6) When any change in the category of license is sought; (III)

58.5(7) Prior to the purchase, transfer, assignment, or lease of an intermediate care facility, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least thirty days before the sale, transfer, assignment, or lease is completed; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's intermediate care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

58.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of an intermediate care facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchase, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

470—58.6(135C) Hearings. The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the district court and shall be paid by the party to the proceeding at whose request the subpoena is issued.

470—58.7(135C) Licenses for distinct parts.

58.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

58.7(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. A distinct part must be operationally and financially feasible;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

470—58.8(135C) Administrator.

58.8(1) Each intermediate care facility shall have one person in charge, duly licensed as a nursing home administrator or acting in a provisional capacity in accordance with the laws of the state of Iowa and the rules of the Iowa board of examiners for nursing home administrators. (III)

58.8(2) A licensed administrator may act as an administrator for not more than two intermediate care facilities. (II)

a. The distance between the two facilities shall be no greater than fifty miles. (II)

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than one hundred fifty beds in total if he is an administrator of more than one facility. (II)

58.8(3) The licensee may be the licensed nursing home administrator providing he meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

58.8(4) A provisional administrator may be appointed on a temporary basis by the intermediate care facility licensee to assume the administrative responsibilities for an intermediate care facility for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace him provided:

a. The department has been notified prior to the date of the administrator's appointment; (III)

b. The board of examiners for nursing home administrators has approved the administrator's appointment and has confirmed such appointment in writing to the department. (III)

58.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

d. Be at least eighteen years of age; (III)

e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

f. Have had training to carry out assignments and take care of emergencies and sudden illness of residents. (III)

58.8(6) A licensed administrator in charge of two facilities shall employ an individual designated as a full-time assistant administrator for each facility. (III)

470—58.9(135C) Administration.

58.9(1) The licensee shall:

a. Assume the responsibility for the overall operation of the intermediate care facility; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the intermediate care facility. (III)

58.9(2) The administrator shall:

a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)

b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs either approved or provided by the department; (II)

c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)

d. Make available the intermediate care facility payroll records for departmental review as needed; (III)

e. Be required to maintain a staffing pattern of all departments. These records must be maintained for six months and are to be made available for departmental review. (III)

470—58.10(135C) General policies.

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

58.10(2) There shall be a written job description developed for each category of worker. The job description shall include title of job, job summary, pay range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

58.10(3) Health examinations for all personnel shall be done at the commencement of employment and thereafter at least yearly. (III)

58.10(4) Health certificates for all employees shall be available for review. (III)

58.10(5) Health examinations shall be in sufficient detail to determine freedom from:

a. Clinical evidence of any disease in a communicable form; (III)

b. Boils or infected wounds; (III)

c. Acute or chronic inflammatory condition of respiratory system. A chest x-ray or tuberculin skin test is required annually. A positive skin test requires a chest x-ray; (III)

d. Evidence of a carrier state of an intestinal infection. Food handlers and nursing staff specifically shall be required to report disabilities and illnesses, especially boils, infected wounds, rashes, sores, acute respiratory infections and intestinal infections. (II)

58.10(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

58.10(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (II)

58.10(8) The facility shall have established policies concerning the control, investigation, and prevention of infections within the facility. (II)

58.10(9) There shall be written policies for resident care programs and services as outlined in these rules. (III)

470—58.11(135C) Personnel.

58.11(1) General qualifications.

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of an intermediate care facility. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in an intermediate care facility. (II)

c. No person with a communicable disease shall be allowed to provide services in an intermediate care facility. (II,III)

d. Return to duty by personnel who have been diagnosed with a communicable disease shall be subject to a physician's written approval. (III)

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

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

g. Persons carried on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. Work programs for residents shall be done only in accordance with physician's orders. (III)

h. The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

i. Nurse's aides, orderlies, or attendants in an intermediate care facility shall have completed or be currently enrolled in a sixty-hour nurse's aide educational program. This program may be provided by the facility or an academic institution. All personnel

administering medications must have completed the state-approved training program in medication administration. (III)

j. There shall be an organized on-going in-service educational and training program planned in advance for all personnel in all departments. (II,III)

58.11(2) Nursing supervision and staffing.

a. Nurses who are employed in the facility on a full-time basis shall not be engaged in other full-time work. (III)

b. Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

c. A qualified nurse shall be employed to relieve the supervising nurses on holidays, vacation, sick leave, days off, absences or emergencies. Pertinent information for contacting such relief person shall be posted at the nurse's station. (III)

d. When the health service supervisor serves as the administrator of a facility, fifty beds and over, a qualified nurse must be employed to relieve her of her nursing supervisory responsibilities. (III)

e. The department may establish on an individual facility basis the numbers and qualifications of the staff required in the facility using as its criteria the services being offered and the needs of the residents. (III)

f. Additional staffing, above the minimum ratio, may be required by the department commensurate with the needs of the individual residents. (III)

g. The minimum hours of resident care personnel required for residents needing intermediate nursing care shall be 1.7 hours per resident day computed on a seven day week and a minimum of twenty percent of such time shall be provided by qualified nurses. (II,III)

h. The health service supervisor's hours worked per week shall be included in computing the twenty percent requirement.

i. An intermediate care facility of seventy-five beds or more shall have a qualified nurse on duty twenty-four hours per day, seven days a week. (II,III)

j. In facilities under fifty beds, if the health service supervisor is a licensed practical nurse, the facility shall employ a registered nurse, for at least four hours each week for consultation, who must be on duty at the same time as the health service supervisor. (II,III)

(1) This shall be an on-site consultation and documentation shall be made of the visit. (III)

(2) The registered nurse-consultant shall have responsibilities clearly outlined in a written agreement with the facility. (III)

(3) Consultation shall include but not be limited to the following: Counseling the health service supervisor in the management of the health services (III); reviewing and evaluating the health services in determining that the needs of the residents are met (II,III); conducting a review of medications at least monthly if the facility does not employ a registered nurse part-time (II,III).

k. Facilities with fifty or more beds must employ a health service supervisor who is a registered nurse. (II)

l. There shall be at least two people who shall be capable of rendering nursing service, awake, dressed, and on duty at all times. (II)

m. Physician's orders shall be implemented by qualified personnel. (II, III)

470—58.12(135C) Admission, transfer, and discharge.

58.12(1) General admission policies.

a. No resident shall be admitted or retained in an intermediate care facility who is in need of greater services than the facility can provide. (II,III)

b. No intermediate care facility shall admit more residents than the number of beds for which it is licensed. (II,III)

c. There shall be no more beds erected than is stipulated on the license. (II,III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II,III)

e. The admission of a resident to an intermediate care facility shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or his legal representative. (III)

f. The admission of a resident shall not grant the intermediate care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the facility as required by these rules. (III)

g. An intermediate care facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. An intermediate care facility shall keep complete and accurate records of all funds and other effects and property of its residents received by it for safekeeping. (III)

i. Funds or properties received by the intermediate care facility belonging to or due a resident, expendable for his account, shall be trust funds. (III)

(1) Trust funds shall be kept separate from the funds and property of the intermediate care facility and other residents. (III)

(2) A trust fund shall be specifically credited to this resident and expended only for this resident. (III)

(3) The intermediate care facility shall furnish for any resident upon request, a complete and certified statement of all funds or other properties which have been entrusted to the management of the facility for that resident. This statement may be requested by the resident, the legal representative, any governmental unit contributing funds or other property to the account of the resident, or private charitable agency contributing funds or other property to the account of the resident. (III)

j. Infants and children under the age of sixteen shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

58.12(2) Discharge or transfer.

a. Prior notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the intermediate care facility for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such a discharge or transfer. (II,III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 58.15(1) and 58.15(2) of these rules will accompany the resident. (II,III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II,III)

470—58.13(135C) Contracts. Each contract shall:

58.13(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

58.13(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subsection 2; (III)

- b. State the method of payment of additional charges; (III)
 - c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)
 - d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services such as barber, beautician, etc.; (III)
- 58.13(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to his or her current condition, based on the nursing assessment at the time of admission, which is determined in consultation with the administrator; (III)
- 58.13(4) Include the total fee to be charged initially to the specific resident; (III)
- 58.13(5) State the conditions whereby the facility may make adjustments to their overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:
- a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges at least thirty days prior to effective date of such changes; (III)
 - b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)
- 58.13(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)
- 59.13(7) State the terms of agreement concerning the holding and charging for a bed in the event of temporary absence of the resident; (III)
- 58.13(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)
- 58.13(9) State the conditions of voluntary discharge or transfer; (III)
- 58.13(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)
- 58.13(11) Each party shall receive a copy of the signed contract. (III)

470—58.14(135C) Medical services.

- 58.14(1) Each resident in an intermediate care facility shall have a designated licensed physician, who may be called when needed. (III)
- 58.14(2) Each resident admitted to an intermediate care facility shall have had a physical examination prior to admission. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be made part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (III)
- 58.14(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II,III)
- 58.14(4) Each resident shall be permitted free choice of a physician and pharmacist. (III)
- 58.14(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (III)
- 58.14(6) A schedule listing the names and telephone numbers of the physicians shall be posted in each nursing station. (III)
- 58.14(7) Residents shall be admitted to an intermediate care facility only on a written order signed by a physician certifying that the individual being admitted requires no greater degree of nursing care than the facility is licensed to provide. (III)
- 58.14(8) Each resident shall be visited by or shall visit his or her physician at least once each year. (III)

470—58.15(135C) Records.

58.15(1) Resident admission record. The licensee shall keep a permanent record on all residents admitted to an intermediate care facility with all entries current, dated, and signed. This shall be a part of the resident clinical record. (III) The admission record form shall include:

- a. Name and previous address of resident; (III)
- b. Birthdate, sex, and marital status of resident; (III)
- c. Church affiliation; (III)
- d. Physician's name, telephone number, and address; (III)
- e. Dentist's name, telephone number, and address; (III)
- f. Name, address, and telephone number of next of kin or legal representative; (III)
- g. Name, address, and telephone number of person to be notified in case of emergency; (III)
- h. Mortician's name, telephone number, and address; (III)
- i. Pharmacist's name, telephone number, and address. (III)

58.15(2) Resident clinical record. There shall be a separate clinical record for each resident admitted to an intermediate care facility with all entries current, dated, and signed. (III) The resident clinical record shall include:

- a. Admission record; (III)
- b. Admission diagnosis; (III)
- c. Physical examination: The record of the physical examination and medical history shall include resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential, results of tuberculin skin test or chest x-ray, and other diagnostic procedures; (III)
- d. Physician's certification that the resident requires no greater degree of nursing care than the facility is licensed to provide; (III)
- e. Physician's orders for medication, treatment, and diet in writing and signed by the physician; (III)
- f. Progress notes.
 - (1) Physician shall enter a progress note at the time of each visit; (III)
 - (2) Other professionals, i.e., dentists, social workers, physical therapists, pharmacists, and others shall enter a progress note at the time of each visit; (III)
- g. All laboratory, x-ray, and other diagnostic reports; (III)
- h. Nurse's record including:
 - (1) Admitting notes including time and mode of transportation; room assignment; disposition of valuables; symptoms and complaints; general condition; vital signs; and weight; (II,III)
 - (2) Routine notes including physician's visits; telephone calls to and from the physician; unusual incidents and accidents; change of condition; social interaction; and P.R.N. medications administered including time and reason administered, and resident's reaction; (II,III)
 - (3) Discharge or transfer notes including time and mode of transportation; resident's general condition; instructions given to resident or legal representative; list of medications and disposition; and completion of transfer form for continuity of care; (II,III)
 - (4) Death notes including notification of physician and family to include time, disposition of body, resident's personal possessions and medications; and complete and accurate notes of resident's vital signs and symptoms preceding death; (III)
- i. Medication record.
 - (1) An accurate record of all medications administered shall be maintained for each resident. (II,III)
 - (2) Schedule II drug records shall be kept in accordance with state and federal laws; (II,III)
- j. Death record.
 - (1) The death record shall include name, age, sex, and race of deceased; date and time of death; physician's name, address, and signature; immediate cause of death; name and address of relative or legal representative notified of death; name, address, and signature of mortician receiving the body. (III)

(2) If the physician does not sign the death record, a copy of the death certificate shall be obtained by the facility as soon as it becomes available and made a part of the resident's medical record retained by the facility; (III)

k. Transfer form.

(1) The transfer form shall include identification data from the admission record, name of transferring institution, name of receiving institution, and date of transfer; (III)

(2) The nurse's report shall include resident attitudes, behavior, interests, functional abilities (activities of daily living), unusual treatments, nursing care, problems, likes and dislikes, nutrition, current medications (when last given), and condition on transfer; (III)

(3) The physician's report shall include reason for transfer, medications, treatment, diet, activities, significant laboratory and x-ray findings, and diagnosis and prognosis; (III)

l. Consultation reports shall indicate services rendered by allied health professionals in the facility or in health-centered agencies such as dentists, physical therapists, podiatrists, oculists, and others. (III)

58.15(3) Resident personal record. Personal records may be kept as a separate file by the facility.

a. Personal records may include factual information regarding personal statistics, family and responsible relative resources, financial status, and other confidential information.

b. Personal records shall be accessible to professional staff involved in planning for services to meet the needs of the resident. (III)

c. When the resident's records are closed, the information shall become a part of the final record. (III)

d. Personal records shall include a duplicate copy of the contract(s). (III)

58.15(4) Incident record.

a. Each intermediate care facility shall maintain an incident record report and shall have available incident report forms. (III)

b. Report of incidents shall be in detail on a printed incident report form. (III)

c. The person in charge at the time of the incident shall prepare and sign the report. (III)

d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)

e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

58.15(5) Retention of records.

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. The resident's records shall be kept confidential and shall be revealed only to persons authorized by law. (III)

d. The resident's record shall be released to the individual's physician when the facility ceases to operate. (III)

58.15(6) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

58.15(7) Personnel record.

a. An employment record shall be kept for each employee consisting of the following information: Name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

470—58.16(135C) Resident care and personal services.

58.16(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

58.16(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II,III)

58.16(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

58.16(4) Residents shall receive kind and considerate care at all times and shall not be abused physically, mentally, or verbally in any way. (II)

58.16(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

58.16(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

58.16(7) Residents shall not have their personal lives regulated or controlled beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules and regulations. However, residents shall be encouraged to participate in the recreational programs. (III)

58.16(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of chapter 135C, Code of Iowa. (II,III)

58.16(9) Residents who are not bedfast shall be fully dressed each day to maintain self-esteem and promote a normal life style. (III)

470—58.17(135C) Rights of residents.

58.17(1) Visiting.

a. Visitors shall be permitted to visit residents at any reasonable time. (III)

b. Each resident shall be permitted to have privacy with his visitors or the representative of the agency who has responsibility for his care. (III)

58.17(2) Religion.

a. A resident's right to his own religious convictions or the absence of them shall not be infringed upon. (III)

b. A resident's request to see a clergyman shall be honored. (III)

c. The facility shall attempt to arrange for transportation for residents who desire to attend church services at no additional cost to the resident. (III)

58.17(3) Mail.

a. Residents shall receive their mail unopened. (III)

b. Outgoing mail shall not be censored, controlled, or restricted unless written authorization signed by the resident's legal guardian is on file in the facility. (II)

c. Assistance with correspondence shall be provided when requested. (III)

58.17(4) *Telephone.* A telephone shall be accessible to the residents within the facility to make personal calls. (III)

58.17(5) Access.

a. Living room and recreational areas shall be freely accessible to the residents at all reasonable times. (III)

b. Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing for refusing such permission. (III)

470—58.18(135C) Nursing care.

58.18(1) Individual health care plans shall be based on the nature of the illness or disability, treatment, and care prescribed. Long and short term goals shall be developed by each discipline providing service, treatment, and care. These plans shall be in writing, revised as necessary, and kept current. They shall be made available to all those rendering the services and for review by the department. (III)

58.18(2) Nursing care shall be given by a registered nurse, licensed practical nurse, or other qualified, nonprofessional personnel. (II,III)

58.20(14) Keep the administrator informed of the resident's status; (III)

58.20(15) Teach and coordinate rehabilitative health care including activities of daily living, promotion and maintenance of optimal physical and mental functioning; (III)

58.20(16) Supervise serving of diets to assure that individuals unable to feed themselves are promptly fed and that special eating utensils are available as needed; (II,III)

58.20(17) Make available a nursing procedure manual which shall include all procedures practiced in the facility; (III)

58.20(18) Participate with the administrator in the formulation of written policies and procedures for resident services; (III)

58.20(19) The person in charge shall immediately notify the family of any accident, injury, or adverse change in the resident's condition requiring physician's notification. (III)

470—58.21(135C) Drugs, storage, and handling.

58.21(1) A bathroom shall not be used for drug storage. (III)

58.21(2) The drug storage cabinet shall be kept locked. (III)

58.21(3) The medicine cabinet key shall be in the possession of the person directly responsible for issuing medications. (II,III)

58.21(4) Schedule II drugs, as defined by chapter 204, Code of Iowa, shall be kept in a locked box within the locked medicine cabinet. (II)

58.21(5) Drugs for external use shall be stored separately from drugs for internal use. (III)

58.21(6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items. A method for locking these medications shall be provided. (III)

58.21(7) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I,II)

58.21(8) All flammable materials shall be specially stored and handled in accordance with applicable local and state fire regulations. (II)

58.21(9) The individual charged with the responsibility of administering medications shall have knowledge of the purpose of the drug, its dangers, and contraindications. (II,III)

58.21(10) Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose and observing the actual act of swallowing the oral medication. (II). Also unless the unit dose system is used, medications shall be prepared on the same shift of the same day that the medication is administered. (II)

58.21(11) An accurate written record of medications administered shall be made by the individual administering the medication. (III)

58.21(12) Records shall be kept of all Schedule II drug medications received and dispensed in accordance with the controlled drug and substance Act. (III)

58.21(13) Any unusual resident reaction shall be reported to the physician at once. (II)

58.21(14) A policy shall be established by the facility to govern the administration of prescribed medications to residents who are on leave from the facility. (III)

58.21(15) Emergency medication tray. An intermediate care facility shall provide an emergency medication tray. (III) There shall be compliance with the following requirements:

a. Prescription drugs as well as nonprescription items in the tray must be prescribed or approved by the physician, in consultation with the pharmacist, who provides emergency service to the facility; (III)

b. The tray shall be stored in an accessible place; (III)

c. The tray shall contain a list of its contents and quantities of each item on the outside cover and within the box; (III)

d. The tray shall be closed with a seal which may be broken when drugs are required in an emergency or for inspection; (III)

e. Any item removed from the tray will be replaced within forty-eight hours; (III)

f. A permanent record shall be kept of each time the tray is utilized; (III)

g. The tray shall be inspected by a pharmacist at least once every three months to determine the stability of items in the tray. (III)

58.21(16) Drug handling.

a. Bulk supplies of prescription drugs shall not be kept in an intermediate care facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

b. Inspection of drug storage condition shall be made by the health service supervisor and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the nurse and pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: Expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. If the facility permits registered nurses to dilute or reconstitute drugs at the nursing station, distinctive supplementary labels shall be available for the purpose. The notation on the label shall be made so as to be indelible. (III)

d. Dilution and reconstitution of drugs and their labeling shall be done by the pharmacist whenever possible. If not possible, the following will be carried out only by the registered nurse:

(1) Specific directions for dilution or reconstitution and expiration date should accompany the drug; (III)

(2) A distinctive supplementary label shall be affixed to the drug container when diluted or reconstituted by the nurse for other than immediate use. (III) The label shall bear the following: Resident's name, dosage and strength per unit/volume, nurse's name, expiration date, and date and time of dilution. (III)

58.21(17) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. There shall be no medications or any solution in unlabeled containers. (II,III)

d. The medications of each resident shall be kept or stored in the originally received containers. (II,III)

e. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label of a drug container. (II,III)

f. When a resident is discharged or leaves the facility, the unused prescription shall be sent with him or with a legal representative only upon the written order of a physician. (III)

g. Unused prescription drugs prescribed for residents who are deceased shall be destroyed by a qualified nurse with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

h. Prescriptions shall be refilled only with the permission of the attending physician. (II,III)

i. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

j. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

k. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident's current medications. Discontinued drugs shall be destroyed by the responsible nurse with a witness and a notation made to that effect. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II,III)

l. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The physician, in consultation with the pharmacist serving the home, shall institute policies and provide procedures for review and endorsement of stop orders on drugs. This policy shall be conveniently located for personnel administering medications. (II,III)

m. No resident shall be allowed to keep in his possession any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

n. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided. (II)

o. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

p. A qualified nurse shall:

(1) Establish a medication schedule system which identifies the time and dosage of each medication prescribed for each patient. (II,III)

(2) Establish a medication record containing the information specified above needed to monitor each resident's drug regimen. (II,III)

q. Telephone orders shall be taken by a qualified nurse. Orders shall be written into the resident's record and signed by the person receiving the order. Telephone orders shall be submitted to the physician for his signature within forty-eight hours. (III)

r. A pharmacy operating in connection with an intermediate care facility shall comply with the provisions of the pharmacy law requiring registration of pharmacies and the regulations of the Iowa board of pharmacy examiners. (III)

s. In an intermediate care facility with a pharmacy or drug supply, service shall be under the personal supervision of a pharmacist licensed to practice in the state of Iowa. (III)

58.21(18) Drug administration.

a. Controlled drugs, as defined in chapter 204, Code of Iowa, and injectable medications shall not be administered by anyone other than a qualified nurse or physician. (II)

b. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

c. The health service supervisor shall be responsible for the supervision and direction of all personnel administering medications. (II)

470—58.22(135C) Rehabilitative services. Rehabilitative services shall be provided to maintain function or improve the resident's ability to carry out the activities of daily living. (III)

58.22(1) Physical therapy services.

a. Each facility shall have a written agreement with a licensed physical therapist to provide physical therapy services. (III)

b. Physical therapy shall be rendered only by a physical therapist licensed to practice in the state of Iowa. All personnel assisting with the physical therapy of residents must be under the direction of a licensed physical therapist. (II,III)

c. The licensed physical therapist shall:

(1) Evaluate the resident and prepare a physical therapy treatment plan conforming to the medical orders and goals; (III)

(2) Consult with other personnel in the facility who are providing resident care and plan with them for the integration of a physical therapy treatment program into the overall health care plan; (III)

(3) Instruct the nursing personnel responsible for administering selected restorative procedures between treatments; (III)

(4) Present programs in the facility's in-service education programs. (III)

d. Treatment records in the resident's medical chart shall include:

- (1) The physician's prescription for treatment; (III)
- (2) An initial evaluation note by the physical therapist; (III)
- (3) The physical therapy care plan defining clearly the long-term and short-term goals and outlining the current treatment program; (III)

(4) Notes of the treatments given and changes in the resident's condition; (III)

(5) A complete discharge summary to include recommendations for nursing staff and family. (III)

e. There shall be adequate facilities, space, appropriate equipment, and storage areas as are essential to the treatment or examinations of residents. (III)

58.22(2) Other rehabilitative services.

a. The facility shall arrange for specialized and supportive rehabilitative services when such services are ordered by a physician. (III) These may include audiology and occupational therapy.

b. Before January 1, 1977, audiology services shall be under the direction of a qualified speech pathologist or audiologist who has a current certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association or equivalent. After January 1, 1977, audiology services shall be under the direction of a person licensed in the State of Iowa by the board of speech pathology and audiology. (II, III)

c. Occupational therapy services shall be under the direction of a qualified occupational therapist who is currently registered by the American Occupational Therapy Association. (II, III)

d. The appropriate professional shall:

(1) Develop the treatment plan and administer or direct treatment in accordance with the physician's prescription and rehabilitation goals; (III)

(2) Consult with other personnel within the facility who are providing resident care and plan with them for the integration of a treatment program into the overall health care plan. (III)

470—58.23(135C) Dental, diagnostic, and other services.

58.23(1) Dental services.

a. The intermediate care facility personnel shall assist residents to obtain regular and emergency dental services. (III)

b. Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)

c. Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)

d. All dental reports or progress notes shall be included in the clinical record. (III)

e. Nursing personnel shall assist the resident in carrying out dentist's recommendations. (III)

f. Dentists shall be asked to participate in the in-service program of the facility. (III)

58.23(2) Diagnostic services.

a. The intermediate care facility shall make provisions for promptly securing required clinical laboratory, x-ray, and other diagnostic services. (III)

b. All diagnostic services shall be provided only on the written, signed order of a physician. (II)

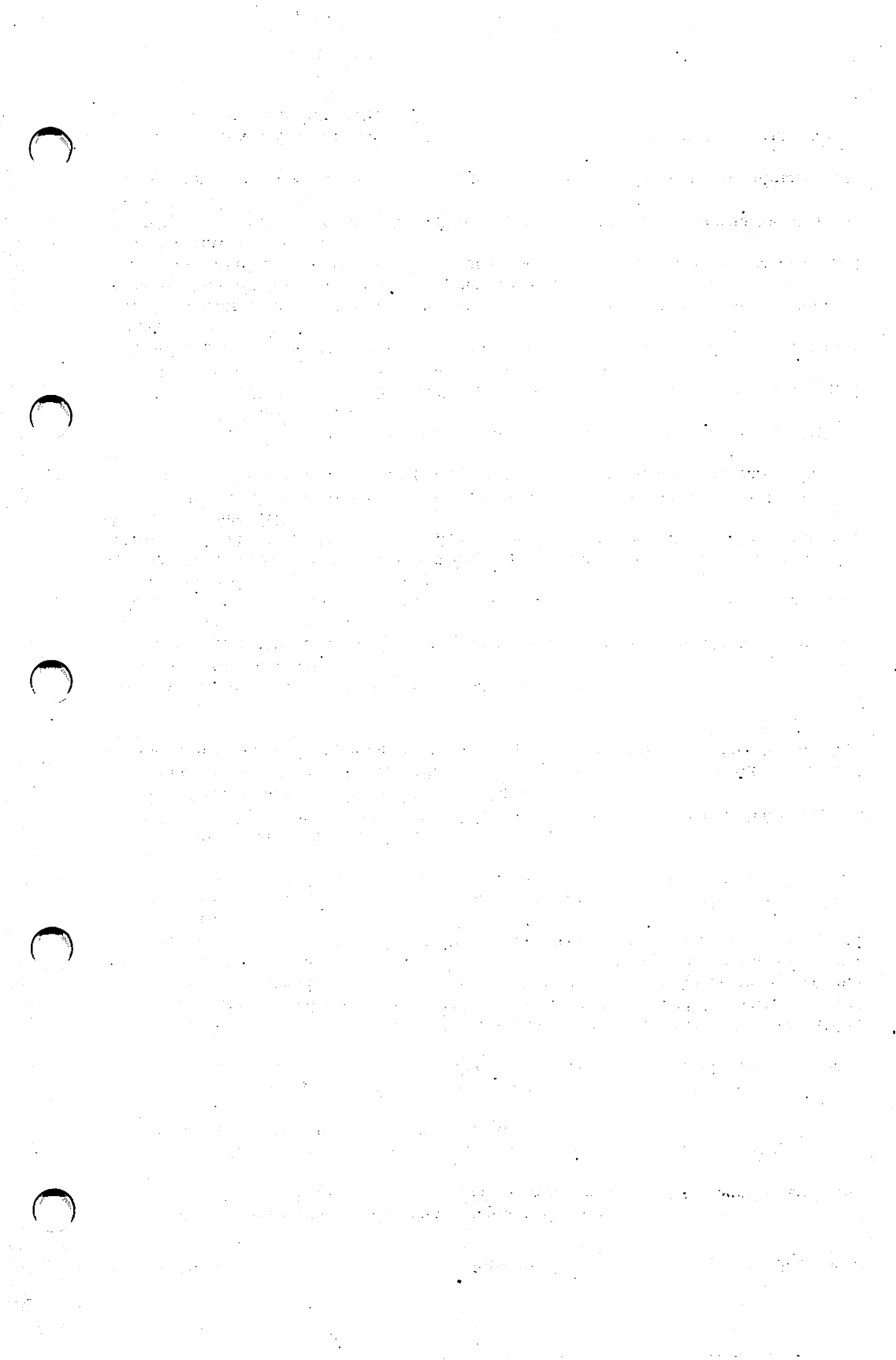
c. Agreements shall be made with the local hospital laboratory or independent laboratory to perform specific diagnostic tests when they are required. (III)

d. Transportation arrangements for residents shall be made, when necessary, to and from the source of service. (III)

e. Copies of all diagnostic reports shall be requested by the facility and included in the resident's clinical record. (III)

f. The physician ordering the specific diagnostic service shall be promptly notified of the results. (III)

g. Simple tests such as customarily done by nursing personnel for diabetic residents may be performed in the facility. (III)



58.23(3) Other services.

- a. The intermediate care facility shall assist residents to obtain such supportive services as requested by the physician. (III)
- b. Transportation arrangements shall be made when necessary. (III)
- c. Services could include the need for prosthetic devices, glasses, hearing aids, and other necessary items. (III)

470—58.24(135C) Dietary.

58.24(1) Organization of dietetic service department. The facility shall meet the needs of the residents and provide the services listed in this standard. If the service is contracted out, the contractor shall meet all the standards. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

a. There shall be written policies and procedures for the dietetic service department that include staffing, nutrition, and menu planning; therapeutic diets; preparation; service; ordering; receiving; storage; sanitation; and hygiene of staff. The policies and procedures shall be kept in a notebook and made available for use in the dietetic service department. (III)

b. There shall be written job descriptions for each position in the dietetic service department. The job descriptions shall be posted or kept in a notebook and made available for use in the dietetic service department. (III)

58.24(2) Dietary staffing.

a. The facility shall employ a supervisor who has completed or is in the process of completing a minimum of ninety hours of approved training having overall supervisory responsibility for the dietetic service department. (II,III) The supervisor shall be allowed sufficient time for management responsibilities that include:

- (1) Participation in regular conferences with consultant dietitian, administrator, and other department heads; (III)
- (2) Writing menus with consultation from dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)
- (3) Establishing and maintaining high standards for food preparation and service; (II,III)
- (4) Participating in selection, orientation, and in-service training of dietary personnel; (II,III)
- (5) Supervising activities of dietary personnel; (II,III)
- (6) Maintaining up-to-date lists of residents identified by name, location, and diet order; (III)

(7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (III)

(8) Keeping records of repair of equipment in the dietetic service department. (III)

b. The facility shall employ sufficient supportive personnel to carry out the following functions:

(1) Preparation and serving adequate amounts of food that is handled in a manner to be bacteriologically safe; (II,III)

(2) Washing and sanitizing dishes, pots, pans, and equipment at temperatures required by procedures described elsewhere; (II,III)

(3) Serving of therapeutic diets as prescribed by the physician following guidelines in the diet manual approved by the nutrition section, department of health. (II,III)

c. The facility shall not assign personnel duties simultaneously in food service and laundry, housekeeping, or nursing service except in an emergency situation. If such a situation occurs, proper sanitary and personal hygiene procedures shall be followed as outlined under the rules pertaining to hygiene of staff. (II,III)

d. If the dietetic service supervisor is not a qualified dietitian or a dietetics, food, and nutrition or institution management major, a consultant dietitian is required. (III) (The consultant dietitian shall be a person who has received a baccalaureate degree with major

studies in food service and nutrition and is preferably a registered member or is eligible for registration/membership in the American Dietetic Association and who participates annually in continuing dietetic education.)

e. Consultant's visits are scheduled to be of sufficient duration and at a time convenient to work with nursing staff on resident care plans, consult with administrator and others on developing and implementing policies and procedures, work with dietetic supervisor on developing procedures, general and therapeutic menus, recipes and other management tools as well as planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department. (III)

58.24(3) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician's orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) "Food for Fitness, A Daily Food Guide", leaflet No. 424, U.S. Department of Agriculture (Revised July, 1973), can be used as a guide for planning meals which will generally meet the recommended dietary allowances. The four food groups listed below are the same as in leaflet No. 424, nutrition section, department of health, and the basic four food groups for menu planning in the 1975 edition of the "Simplified Diet Manual", Iowa State University Press, Ames, Iowa. Recommended daily dietary allowances are:

(1) Milk—two or more cups served as beverage or used in cooking;

(2) Meat group—two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group—four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group—four or more servings of whole-grain, enriched or restored;

(5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

c. At least three meals or their equivalent shall be served daily, at regular hours. (II)

(1) There shall be no more than a fourteen-hour span between substantial evening meal and breakfast. (II,III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II,III)

(3) If a three, four, or five-meal plan is in effect, the nutritional value provided shall meet recommended daily allowances. The night feeding shall include foods that are good sources of protein. (II)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for thirty days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

58.24(4) Therapeutic diets.

a. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual approved by the nutrition section, department of health, shall be readily available to attending physicians, nurses, and dietetic service personnel. This manual shall

be used as a guide for writing menus for therapeutic diets. A dietitian or approved dietary consultant is responsible for writing the therapeutic menu and reviewing procedures for preparation and service of food. (III)

b. Personnel responsible for planning and serving simple therapeutic diets should receive instructions on those diets through training programs developed by the department or training programs which meet the department's approval. (III)

58.24(5) Food preparation and service.

a. Methods used to prepare food shall be those which conserve nutritive value, fresh flavor, and make an attractive appearance. (III)

b. Foods shall be attractively served. (III)

c. Foods shall be cut, chopped, ground, or blended to meet individual needs. (II,III)

d. Self-help devices shall be provided as needed. (II,III)

e. Table service shall be attractive. (III)

f. Dishes shall be free of cracks, chips, and stains. (III)

g. Hot food that is transported shall be covered. (III)

h. All perishable or potentially hazardous food that readily supports harmful bacterial growth, shall be maintained and stored at temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

58.24(6) Dietary ordering, receiving, and storage.

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II,III)

b. The use of food from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

d. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a three-day period shall be maintained on the premises. "Family Food Plans", revised in 1974, Table 1, Low-Cost Food Plan, U.S. Department of Agriculture, shall be used as the established criteria for judging satisfactory compliance for minimum food portion requirements for residents. (II,III)

e. Records which show amount and kind of food purchased shall be retained for three months and shall be made available to the department upon request. (III)

f. Dry or staple food items shall be stored off the floor in a room not subject to sewage or waste water back-flow or contamination by condensation or rodents or vermin. (III)

g. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

58.24(7) Sanitation in food preparation area.

a. "Food Service Sanitation Manual", 1975, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C., shall be used as the established, nationally-recognized reference for establishing and determining satisfactory compliance with food service sanitation.

b. Residents shall not be allowed in the food preparation area. (III)

c. The food preparation area shall not be used as a dining area for residents, staff, or food service personnel. (III)

d. All foods, while being stored, prepared, displayed, served, or transported, shall be protected against contamination from dust, flies, rodents, and other vermin. (II,III)

e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II,III)

f. The top surface of tables and counters on which food is prepared or served shall be smooth, of tight-jointed material, or covered with impervious material in good repair, and shall be kept clean. Drain boards and counters used in wet areas should be of stainless steel. (III)

g. There shall be effective written procedures established for cleaning all work and serving areas. (III)

h. A schedule of cleaning duties to be performed daily shall be posted in each food area. (III)

i. All cooking equipment shall be provided with a properly-sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)

j. Spillage and breakage shall be cleaned up immediately. (III)

k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III).

l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)

m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, of light color and shall be kept clean. Walls and floors in wet areas should be moisture-resistant. (III)

n. There shall be no washing, ironing, sorting, or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leak-proof containers. (III)

o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

p. There shall be no animals or birds in the food preparation area. (III)

q. No dishes or cooking utensils shall be towel dried. (III)

r. In facilities of fifteen or more beds, a mechanical dishwasher is required. (III)

s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (76°C) to 180°F (82°C). The machine shall be provided with temperature gauges. (III)

t. A three-compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two-compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)

u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust, and other contaminants. (III)

v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

w. All food preparation for meals and prescribed nourishments shall be performed in the food service department. Food prepared as a part of the activity program shall be done elsewhere. (III)

x. A mop and mop pail shall be provided for exclusive use in the dietetic service department. (III)

y. Sanitary procedures for cleanup and use of food service equipment shall be specified and implemented. (III)

58.24(8) Hygiene of food service personnel.

a. Food service personnel shall be free of communicable diseases and practice hygienic food handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II,III)

b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area. (III)

c. Hairnets shall be worn by all food service personnel. Hairnets shall cover all hair. Individuals with beards shall provide for total enclosure of facial hairs. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good handwashing techniques. A hand-wash basin shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

58.24(9) Food and drink. All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II,III)

470—58.25(135C) Social services program.

58.25(1) The administrator or his designee shall be responsible for developing a written, organized orientation program for all residents. (III)

58.25(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

58.25(3) The social services plan, including specific goals and regular evaluation of progress, shall be incorporated into the overall plan of care. (III)

470—58.26(135C) Resident activities program.

58.26(1) Organized activities. Each intermediate care facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)

e. The activity program shall include suitable activities for those residents unable to leave their rooms. (III)

58.26(2) Coordination of activities program.

a. Each intermediate care facility shall employ a person to direct the activities program. (III)

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

c. The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

58.26(3) Duties of activity coordinator. The activity coordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Individual resident progress notes recorded at regular intervals (at least every two months). A copy of these notes shall be placed in the resident's clinical record; (III)

(3) Monthly calendars, prepared in advance. (III)

d. Coordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

58.26(4) *Supplies, equipment, and storage.*

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: Books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

470—58.27(135C) *Care review committee.* Each facility shall establish a care review committee in accordance with section 135C.25, Code of Iowa, which shall operate within the scope of these rules and regulations for health care facilities. (III)

58.27(1) *Purpose of care review committee.*

a. The committee shall represent the rights of the consumer in the facility for determination of appropriate care, of services available in the facility, and the determination of any discriminative practices. (III)

b. The committee shall consider the needs of the residents in respect to the services the facility is authorized to render. (III)

c. The committee shall consist of at least three members and no more than five. (III)

d. The area wide health planning council shall appoint the members of the committee from individuals who have an interest in the provision of health care services and protection of dependent persons. After failure of the area wide health planning council to appoint members to the care review committee within the time unit specified in the Code, the commissioner and facility administrator shall act under the same guidelines concerning who shall be appointed and within the specified time limits in the Code. (III)

e. Membership of the care review committee shall be evaluated by the department prior to renewal of license each year. The department shall be notified in writing of all appointments to care review committees including names and addresses, within thirty days of an appointment. (III)

f. A care review committee found to be functioning unsatisfactorily by the department may be required to be replaced. (III)

g. The members of the care review committee shall not have an ownership interest in the facility, nor be employed by the facility, nor be related to an employee or licensee, nor be a public employee involved with the sponsoring or placement of residents, nor be one who inspects or otherwise evaluates the facility or residents. (III)

h. The committee shall elect a chairperson and secretary (at its first meeting) and shall meet at least quarterly and on such occasions as required to accomplish its purposes. (III)

i. Information concerning the operation of the facility and residents residing therein is a privileged communication and shall not be disclosed publicly in such a manner as to identify individuals or the facility except in accordance with section 135C.19, Code of Iowa. (III)

j. The committee shall be made acquainted and knowledgeable by the administrator of the rules and regulations of the department governing the operating of the facility and the services it is licensed to provide. (III)

58.27(2) *Responsibilities of the committee.*

a. The committee shall determine whether the facility and the contract for services and program of care are as agreed upon in the contract. (III)

b. The committee may function for more than one facility. (III)

c. Each resident shall be reviewed on at least an annual basis. (III)

d. The committee shall determine through its observations, conference with the resident, and consultation with others that services are being provided in accordance with the resume of care. Determination shall be made regarding the following: Cleanliness of resident,

58.33(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

58.33(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

58.33(4) Residents' personal laundry shall be marked with an identification. (III)

58.33(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

470—58.34(135C) Garbage and waste disposal.

58.34(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

58.34(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

58.34(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

58.34(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

58.34(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

470—58.35(135C) Buildings, furnishings, and equipment.

58.35(1) Buildings—general requirements.

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-fourth inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of residents' clothing. (III)

58.35(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)

c. Upholstery materials shall be moisture and soil resistant, except on furniture provided by the resident and the property of the resident. (III)

58.35(3) Dining and living rooms.

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in section 58.35(3) "e" of the rules are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least thirty square feet per licensed bed for the first one hundred beds and twenty-seven square feet per licensed bed for all beds in excess of one hundred. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably provided with parlor furniture, television and radio receivers in good working order, recreational material such as games, puzzles, and cards, and reading material such as current newspapers and magazines. Furnishings and equipment of the room should be such as to allow group activities. (III)

(3) Card tables or game tables shall be made available. The tables should be of a height to allow a person seated in a wheelchair to partake in the games or card playing. (III)

(4) Chairs of proper height and appropriate to their use shall be provided for seating residents at game tables and card tables. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) Dining tables and chairs shall be provided. (III)

(3) Dining tables should be so constructed that a person seated in a wheelchair can dine comfortably. (III)

(4) Tables shall be of sturdy construction with smooth, durable, nonpermeable tops that can be cleaned with a detergent sanitizing solution. (III)

(5) Dining chairs shall be sturdy and comfortable. Some arm chairs should be provided for ease of movement for some residents. (III)

(6) Residents shall be encouraged to eat in the dining room. (III)

58.35(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. Seventy-five percent of the beds shall have a spring with adjustable head and foot section. (III)

b. Each bed shall be equipped with the following: Casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average size; and moisture-proof covers and sheets as necessary to keep the mattress and pillows dry and clean. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. Clothing shall be hung in closets or wardrobes available in each room. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in his room. (III)

l. Each room shall have sufficient accessible mirrors to serve residents' needs. (III)

m. Sturdy, adjustable overbed tables shall be provided for each resident who is unable to eat in the dining room. (III)

n. There shall be privacy curtains available for use between each resident bed in multiple bedrooms. Portable screens are not an acceptable type of privacy curtain. (III)

58.35(5) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

58.35(6) Water supply.

a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. The temperature of the hot water to the resident lavatories, baths, and showers shall not exceed 110°F (43°C). A 5° variable shall be acceptable. (III)

g. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department of health. (III)

58.35(7) Nonambulatory residents.

a. All nonambulatory residents shall be housed on the grade level floor. (II, III)

b. These provisions in section "a" above relating to nonambulatory residents are not applicable if the facility has a suitably sized elevator.

470—58.36(135C) Family and employee accommodations.

58.36(1) Children shall not be allowed into the service areas. (III)

58.36(2) The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

58.36(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

58.36(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

58.36(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

470—58.37(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

470—58.38(135C) Supplies.**58.38(1) Linen supplies.**

a. There shall be an adequate supply of linen so that each resident shall have at least three wash cloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

58.38(2) First aid kit. A first aid emergency kit shall be available on each floor in every facility. (II, III)

58.38(3) Supplies and equipment for nursing services.

a. For purposes of consultation, the manual "Hospital and Nursing Home Equipment Planning Guide", P.H.S. Pub. No. 930-D-4, Revised 1967, U.S. Department of Health, Education, and Welfare, Public Health Service, Division of Hospital and Medical Facilities Architectural, Engineering, and Equipment Branch, Washington, D.C. 20201, shall be used for suggesting the types and quantities of equipment and supplies needed for nursing services in intermediate care facilities.

b. All nursing care equipment shall be properly sanitized or sterilized before use by another resident. (II)

c. There shall be disposable or one-time use items available appropriate to the size of the facility with provisions made for proper disposal so as to prevent their reuse. (III)

d. Convenient, safe storage shall be provided for bath and toilet supplies, bathroom scales, mechanical lifts, and shower chairs. (III)

e. Sanitary and protective storage shall be provided for all equipment and supplies. (III)

f. All items that must be sterilized shall be autoclaved unless sterile disposable items are furnished which are promptly disposed of after a single use. (II)

g. Supplies and equipment for nursing and personal care sufficient in quantities to meet the needs of the residents shall be provided and, as a minimum, which include the following (III):

Bath basins	Stethoscope
Soap containers	Ice caps
Denture caps	Hot water bottles
Emesis basins	Rectal tubes
Mouthwash cups	Catheters and catheterization equipment
Bedpans	Douche nozzle
Urinals	Oxygen therapy equipment
Enema equipment	Naso-gastric feeding equipment
Commodes	Wheelchairs
Quart graduate measure	Moisture-proof draw sheets
Thermometer for measurement of bath water temperature	Moisture-proof pillow covers
Mouth thermometer	Moisture-proof mattress covers
Rectal thermometer	Foot tubs
Basins for sterilizing thermometers	Metal pitcher
Basins for irrigations	Disinfectant solutions
Asepto syringes	Alcohol
Sphygmomanometer	Lubricating jelly
Paper towels	Skin lotion
Paper handkerchiefs	Applicators
Insulin syringes	Tongue blades
2 cc hypodermic syringes	Toilet paper
	Rubber gloves or disposable gloves

Hypodermic needles
Tourniquet
Medicine dispensing containers
Bandages
Adhesive

Suction machine
Portable linen hampers
Denture identification equipment
Tracheotomy care equipment

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CHAPTER 59 SKILLED NURSING FACILITIES

470—59.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in section 135C.1 of the Code shall be considered to be incorporated verbatim in the rules. The use of the words "shall" and "must" indicate those standards are mandatory. The use of the words "should" and "could" indicate those standards are recommended.

59.1(1) "Accommodation" means the provision of lodging, including sleeping, dining, and living areas.

59.1(2) "Administrator" means a person licensed pursuant to chapter 147, Code of Iowa, who administers, manages, supervises, and is in general administrative charge of a skilled nursing facility, whether or not such individual has an ownership interest in such facility, and whether or not his functions and duties are shared with one or more individuals.

59.1(3) "Alcoholic" means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in chapter 125.2, Code of Iowa, 1975.

59.1(4) "Ambulatory" means the condition of a person who immediately and without aid of another is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

59.1(5) "Basement" means that part of a building where the finish floor is more than thirty inches below the finish grade of the building.

59.1(6) "Board" means the regular provision of meals.

59.1(7) "Chairfast" means capable of maintaining a sitting position but lacking the capacity of bearing own weight, even with the aid of a mechanical device or another individual.

59.1(8) "Communicable disease" means a disease caused by the presence of viruses or microbial agents within a person's body, which agents may be transmitted either directly or indirectly to other persons.

59.1(9) "Department" means the state department of health.

59.1(10) "Distinct part" means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

59.1(11) "Drug addiction" means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in chapter 204, Code of Iowa, 1973.

59.1(12) "Medication" means any drug including over-the-counter substances ordered and administered under the direction of the physician.

59.1(13) "Nonambulatory" means the condition of a person who immediately and without aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

59.1(14) "Protective devices" means the measures taken to control a resident's physical activity for his own protection or for the protection of others.

59.1(15) "Personal care" means assistance with the activities of daily living which the recipient can provide for himself only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

59.1(16) "*Program of care*" means all services being provided for a resident in a health care facility.

59.1(17) "*Qualified nurse*" means a registered nurse or licensed practical nurse, as defined in chapter 152 of the Code.

59.1(18) "*Rate*" means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

470—59.2(135C) Variances. Variances from these rules may be granted by the commissioner for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual skilled nursing facility. Variances will be reviewed by the commissioner at his discretion.

59.2(1) To request a variance, the licensee must:

- a. Apply for variance in writing on a form provided by the department;
- b. Cite the rule(s) from which a variance is desired;
- c. State why compliance with the rule(s) cannot be accomplished;
- d. Explain alternate arrangements or compensating circumstances which justify the variance;
- e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

59.2(2) Upon receipt of a request for variance, the commissioner will:

- a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
- b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
- c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
- d. Consult with the applicant if additional information is required.

59.2(3) Based upon these studies, approval of the variance will be either granted or denied within forty-five days of receipt.

470—59.3(135C) Application for licensure.

59.3(1) Initial application. In order to obtain a skilled nursing facility license, the applicant must:

- a. Meet the physical standards as contained in chapter 61 of these rules;
- b. Submit a letter of intent and a written resume of the resident care program and other services provided for departmental review and approval;
- c. Make application at least thirty days prior to the proposed opening date of the facility on forms provided by the department;
- d. Submit a floor plan of each floor of the skilled nursing facility, drawn on 8½ x 11 inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door location;
- e. Submit a photograph of the front and side elevation of the skilled nursing facility;
- f. Submit the statutory fee for a skilled nursing facility license;
- g. Meet the requirements of a skilled nursing facility for which licensure application is made;
- h. Comply with all other local statutes and ordinance in existence at the time of licensure;
- i. Have a certificate signed by the state fire marshal or his deputy as to compliance with fire safety rules and regulations.

59.3(2) Renewal application. In order to obtain a renewal of the skilled nursing facility license, the applicant must:

- a. Submit the completed application form thirty days prior to annual license renewal date of the skilled nursing facility license;

- b. Submit the statutory license fee for a skilled nursing facility with the application for renewal;
- c. Have an approved current certificate signed by the state fire marshal or his deputy as to compliance with fire safety rules and regulations;
- d. Submit appropriate changes in the resume' to reflect any changes in the resident care program or other services.

470—59.4(135C) General requirements.

59.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

59.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

59.4(3) The posted license shall accurately reflect the current status of the skilled nursing facility. (III)

59.4(4) Licenses expire one year after the date of issuance or as indicated on the license.

59.4(5) No skilled nursing facility shall be licensed for more beds than have been approved by the Health Facilities Construction Review Committee. (III)

470—59.5(135C) Notifications required by the department. The department shall be notified:

59.5(1) Within forty-eight hours, by letter, of any reduction or loss of nursing and/or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

59.5(2) Of any proposed change in the skilled nursing facility's functional operation or addition or deletion of required services; (III)

59.5(3) Thirty days before addition, alteration, or new construction is begun in the skilled nursing facility or on the premises; (III)

59.5(4) Thirty days in advance of closure of the skilled nursing facility; (III)

59.5(5) Of any change in administrator; (III)

59.5(6) When any change in the category of license is sought; (III)

59.5(7) Prior to the purchase, transfer, assignment, or lease of a skilled nursing facility, the licensee shall:

- a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

- b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least thirty days before the sale, transfer, assignment, or lease is completed; (III)

- c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's skilled nursing facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

59.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a skilled nursing facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

470—59.6(135C) Hearings. The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the district court and shall be paid by the party to the proceeding at whose request the subpoena is issued.

470—59.7(135C) Licenses for distinct parts.

59.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

59.7(2) The following requirements shall be met for a separate licensing of a distinct part:

- a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)
- b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;
- c. A distinct part must be operationally and financially feasible;
- d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)
- e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

470—59.8(135C) Governing body and management.

59.8(1) There shall be an effective governing body or designated persons so functioning, with full legal authority and responsibility for the operation of the facility.

59.8(2) The governing body shall:

- a. Adopt effective resident care policies;
- b. Adopt administrative policies and bylaws governing the operation of the facility, in accordance with legal requirements;
- c. Make available to all members of the governing body written and dated copies of such policies and bylaws;
- d. Review and revise such policies and bylaws as necessary;
- e. Adopt policies to ensure that the facility co-operates in an effective program of independent medical evaluation;
- f. Appoints a qualified administrator;
- g. Through the administrator, implements and maintains written personnel policies and procedures that support sound resident care and personnel policies.

470—59.9(135C) Utilization review.

59.9(1) The skilled nursing facility shall carry out utilization review of the services provided in the facility.

59.9(2) The skilled nursing facility shall have a written, currently applicable utilization review plan which includes at least the following:

- a. Procedures for medical care evaluation studies, and for dissemination and follow up of study findings and committee recommendations;
- b. Definition of the period(s) of extended duration and procedures for review of individual cases of extended duration;
- c. A method of identifying residents other than by name;
- d. Provisions for maintaining written records of committee activities.

59.9(3) The committee or group responsible for utilization review shall be composed of two or more physicians and optionally, other professional personnel;

- a. All medical determinations shall be made by the physician members of the committee;
- b. No physician may review any case in which they are professionally involved.

59.9(4) Medical care evaluation studies shall:

- a. Be performed to promote the most effective and appropriate use of available health facilities and services;
- b. Emphasize identification and analysis of patterns of resident care and changes indicated to maintain consistent high quality of services;
- c. Identify and analyze factors related to the resident care rendered in the facility and serve as a basis for recommendations for change beneficial to residents, staff, the facility, and the community;
- d. Be a continuous, on-going program.

59.9(5) Cases of extended duration shall be reviewed periodically to determine whether further inpatient stay is necessary.

59.9(6) After the initial review, reviews for medical necessity for further inpatient stay shall be made at least every thirty days for the first ninety days and at least every ninety days thereafter.

59.9(7) A final determination regarding the residents' further care shall be reached no later than seven days following the period of extended duration as defined in the utilization review plan.

59.9(8) The utilization review plan shall specify a different number of days for different diagnostic classes of cases, or use the same number of days for all classes.

59.9(9) Notification shall be made in writing within forty-eight hours by the committee to the administration, the attending physician, and the patient or the patient's representative when an admission of further stay is deemed not medically necessary.

59.9(10) Minutes of each committee meeting shall be maintained and include at least:

- a. Name of committee;
- b. Date of duration of meeting;
- c. Names of committee members present and absent;
- d. Description of activities presently in progress;
- e. Summary of extended duration cases reviewed.

470—59.10(135C) Administrator.

59.10(1) Each skilled nursing facility shall have one person in charge, duly licensed as a nursing home administrator or acting in a provisional capacity in accordance with the laws of the state of Iowa and the rules of the Iowa board of examiners for nursing home administrators. (III)

59.10(2) A licensed administrator may act as an administrator for not more than two skilled nursing facilities: (II)

- a. The distance between the two facilities shall be no greater than fifty miles; (II)
- b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility; (II)
- c. The administrator may be responsible for no more than one hundred fifty beds in total if he is an administrator of more than one facility. (II)

59.10(3) The licensee may be the licensed nursing home administrator providing he meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement.

59.10(4) A provisional administrator may be appointed on a temporary basis by the skilled nursing facility licensee to assume the administrative responsibilities for a skilled nursing facility for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace him provided:

- a. The department has been notified prior to the date of the administrator's appointment; (III)
- b. The board of examiners for nursing home administrators has approved the administrator's appointment and has confirmed such appointment in writing to the department. (III)

59.10(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

- a. Be knowledgeable of the operation of the facility; (III)
- b. Have access to records concerned with the operation of the facility; (III)
- c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)
- d. Be at least eighteen years of age; (III)
- e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)
- f. Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

59.10(6) A licensed administrator in charge of two facilities shall employ an individual designated as a full-time assistant administrator for each facility. (III)

470—59.11(135C) Administration.

59.11(1) The licensee shall:

- a. Assume the responsibility for the overall operation of the skilled nursing facility; (III)
- b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)
- c. Establish written policies, which shall be available for review, for the operation of the skilled nursing facility. (III)

59.11(2) The administrator shall:

- a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)
- b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs either approved or provided by the department; (III)
- c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
- d. Make available the skilled nursing facility payroll records for departmental review as needed; (III)
- e. Be required to maintain a staffing pattern of all departments. These records must be maintained for six months and are to be made available for departmental review. (III)

470—59.12(135C) General policies.

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

59.12(2) There shall be a written job description developed for each category of worker. The job description shall include title of job, job summary, pay range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

59.12(3) Health examinations for all personnel shall be done at the commencement of employment and thereafter at least yearly. (III)

59.12(4) Health certificates for all employees shall be available for review. (III)

59.12(5) Health examinations shall be in sufficient detail to determine freedom from:

- a. Clinical evidence of any disease in a communicable form; (III)
- b. Boils or infected wounds; (III)
- c. Acute or chronic inflammatory condition of respiratory system. A chest X ray or tuberculin skin test is required annually. A positive skin test requires a chest X ray; (III)
- d. Evidence of a carrier state of an intestinal infection. Food handlers and nursing staff specifically shall be required to report disabilities and illnesses, especially boils, infected wounds, rashes, sores, acute respiratory infections and intestinal infections. (III)

59.12(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

59.12(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

59.12(8) The facility shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

59.12(9) There shall be written policies for resident care programs and services as outlined in these rules. (III)

59.12(10) There shall be written effective procedures in aseptic and isolation techniques followed by all personnel. These procedures shall be reviewed and revised annually for effectiveness and improvement. (III)

59.12(11) The facility shall establish an infection control committee of representative professional staff with responsibility for overall infection control in the facility. (III)

59.12(12) Blood handling and storage facilities shall be safe, adequate, and properly supervised. (III)

470—59.13(135C) Personnel.

59.13(1) General qualifications.

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a skilled nursing facility. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a skilled nursing facility. (II)

c. No person with a communicable disease shall be allowed to provide services in a skilled nursing facility. (II,III)

d. Return to duty by personnel who have been diagnosed with a communicable disease shall be subject to a physician's written approval. (III)

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

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

g. Persons carried on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. Work programs for residents shall be done only in accordance with physician's orders. (III)

h. The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

i. Nurse's aides, orderlies, or attendants in a skilled nursing facility shall have completed or be currently enrolled on a 60-hour nurse's aide educational program. This program may be provided by the facility or an academic institution. All personnel administering medications must have completed the state-approved training program in medication administration. (III)

j. There shall be an organized on-going in-service educational and training program planned in advance for all personnel in all departments. (II,III) This training shall include at least:

- (1) Prevention and control of infections;
- (2) Fire prevention and safety;
- (3) Accident prevention;
- (4) Confidentiality of resident information;
- (5) Preservation of resident dignity.

k. A full-time employee shall be designated responsible for personnel services and for supervision and training of personnel.

59.13(2) Nursing supervision and staffing.

a. Nurses who are employed in the facility on a full-time basis shall not be engaged in other full-time work. (III)

b. Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

c. A qualified nurse shall be employed to relieve the supervising nurses on holidays, vacation, sick leave, days off, absences or emergencies. Pertinent information for contacting such relief person shall be posted at the nurse's station. (III)

d. When the health service supervisor serves as the administrator of a facility, fifty beds and over, a qualified nurse must be employed to relieve her of her nursing supervisory responsibilities. (III)

e. The department may establish on an individual facility basis the numbers and qualifications of the staff required in the facility using as its criteria the services being offered and the needs of the residents. (III)

f. Additional staffing, above the minimum ratio, may be required by the department commensurate with the needs of the individual residents. (III)

g. A skilled nursing facility of fifty beds or less shall have a qualified nurse on duty twenty-four hours per day, seven days a week. (II,III)

h. The minimum hours of nursing care required for residents needing skilled nursing care shall be 2.24 hours per licensed bed per week for each additional bed over fifty. (II,III)

i. Aides or orderlies shall be required in the ratio of .28 per bed, per week. (II,III)

j. The health services supervisor's hours worked per week shall be included in computing the twenty percent requirement.

k. In facilities under fifty beds, if the health service supervisor is a licensed practical nurse, the facility shall employ a registered nurse, for at least four hours each week for consultation, who must be on duty at the same time as the health service supervisor. (II,III)

(1) This shall be an on-site consultation and documentation shall be made of the visit. (III)

(2) The registered nurse-consultant shall have responsibilities clearly outlined in a written agreement with the facility. (III)

(3) Consultation shall include but not be limited to the following: Counseling the health service supervisor in the management of the health services (III); reviewing and evaluating the health services in determining that the needs of the residents are met (II,III); conducting a review of medications at least monthly if the facility does not employ a registered nurse part time (II,III).

l. Facilities with fifty or more beds must employ a health service supervisor who is a registered nurse. (II)

m. There shall be at least two people who shall be capable of rendering nursing service, awake, dressed, and on duty at all times. (II).

n. Physician's orders shall be implemented by qualified personnel. (II,III)

470—59.14(135C) Admission, transfer, and discharge.

59.14(1) General admission policies.

a. No resident shall be admitted or retained in a skilled nursing facility who is in need of greater services than the facility can provide. (II,III)

b. No skilled nursing facility shall admit more residents than the number of beds for which it is licensed. (II,III)

c. There shall be no more beds erected than is stipulated on the license. (II,III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II,III)

e. The admission of a resident to a skilled nursing facility shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or his legal representative. (III)

f. The admission of a resident shall not grant the skilled nursing facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the facility as required by these rules. (III)

g. A skilled nursing facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. A skilled nursing facility shall keep complete and accurate records of all funds and other effects and property of its residents received by it for safekeeping. (III)

i. Funds or properties received by the skilled nursing facility belonging to or due a resident, expendable for his account, shall be trust funds: (III)

(1) Trust funds shall be kept separate from the funds and property of the skilled nursing facility and other residents. (III)

(2) A trust fund shall be specifically credited to this resident and expended only for this resident. (III)

(3) The skilled nursing facility shall furnish for any resident upon request, a complete and certified statement of all funds or other properties which have been entrusted to the management of the facility for that resident. This statement may be requested by the resident, the legal representative, any governmental unit contributing funds or other property to the account of the resident, or private charitable agency contributing funds or other property to the account of the resident. (III)

j. Infants and children under the age of sixteen shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

59.14(2) Discharge planning.

a. The facility shall have in operation an organized discharge planning program.

b. The administrator shall designate, in writing, one or more members of the staff to be responsible for discharge planning.

c. The facility shall maintain a written discharge planning procedure which describes:

(1) How the discharge co-ordinator will function;

(2) The time period in which each resident's need for discharge planning is determined;

(3) The maximum time period after which a re-evaluation of each resident's discharge plan is made;

(4) Local resources available to the facility;

(5) Provisions for periodic review and re-evaluation of the discharge planning program.

d. The facility shall, at the time of discharge, provide those responsible for the resident's post discharge care with an appropriate summary of information to ensure the optimal continuity of care.

e. The discharge summary shall include at least:

(1) Current information relative to diagnosis;

(2) Rehabilitation potential;

(3) A summary of the course of prior treatment;

(4) Physician's orders for the immediate care of the resident;

(5) Pertinent social information.

59.14(3) Discharge or transfer.

a. Prior notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the skilled nursing facility for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such a discharge or transfer. (II,III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 59.19(1) and 59.19(2) of these rules will accompany the resident. (II,III)

470—59.15(135C) Contracts. Each contract shall:

59.15(1) State the base rate or scale per day or per month, the services included, and the method or payment; (III)

59.15(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subsection 2; (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services such as barber, beautician, etc.; (III)

59.15(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to his or her current condition, based on the nursing assessment at the time of admission, which is determined in consultation with the administrator; (III)

59.15(4) Include the total fee to be charged initially to the specific resident; (III)

59.15(5) State the conditions whereby the facility may make adjustments to their overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges at least thirty days prior to effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

59.15(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary, or involuntary discharge; (III)

59.15(7) State the terms of agreement concerning the holding and charging for a bed in the event of temporary absence of the resident; (III)

59.15(8) State the conditions under which the involuntary discharge or transfer of a resident would be affected; (III)

59.15(9) State the conditions of voluntary discharge or transfer; (III)

59.15(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

59.15(11) Each party shall receive a copy of the signed contract. (III)

470—59.16(135C) Medical director.

59.16(1) The facility shall retain pursuant to a written agreement, a state licensed physician to serve as medical director on a part-time or full-time basis.

59.16(2) The medical director shall be responsible for:

a. The overall co-ordination of the medical care in the facility;

b. The development of written bylaws, rules, and regulations;

c. Liaison with attending physicians to ensure their writing orders promptly upon admission of a resident;

d. Periodic evaluation of the adequacy and appropriateness of health professional and supportive staff and services;

e. Surveillance of the health status of the facility's employees;

f. Reviewing incidents and accidents that occur on the premises to identify hazards to health and safety;

g. Execution of resident care policies.

470—59.17(135C) Medical services.

59.17(1) Each resident in a skilled nursing facility shall have a designated licensed physician, who may be called when needed. (III)

59.17(2) Each resident admitted to a skilled nursing facility shall have had a physical examination prior to admission. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be made part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (III)

59.17(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II,III)

59.17(4) Each resident shall be permitted free choice of a physician and pharmacist. (III)

59.17(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (III)

59.17(6) A schedule listing the names and telephone numbers of the physicians shall be posted in each nursing station. (III)

59.17(7) Residents shall be admitted to a skilled nursing facility only on a written order signed by a physician certifying that the individual being admitted requires no greater degree of nursing care than the facility is licensed to provide. (III)

59.17(8) Each resident shall be visited by or shall visit his or her physician at least once each year. (III)

470—59.18(135C) Medical records service.

59.18(1) Overall supervisory responsibility is assigned to a full-time employee of the facility.

59.18(2) There shall be employed sufficient supportive personnel competent to carry out the functions of the medical record service.

59.18(3) If the medical record supervisor is not a qualified medical record practitioner, there shall be consultation provided from a person so qualified.

59.18(4) Residents' medical records shall be indexed according to name of resident and final diagnosis.

470—59.19(135C) Records.

59.19(1) *Resident admission record.* The licensee shall keep a permanent record on all residents admitted to a skilled nursing facility with all entries current, dated, and signed. This shall be a part of the resident clinical record. (III) The admission record form shall include:

- a. Name and previous address of resident; (III)
- b. Birthdate, sex, and marital status of resident; (III)
- c. Church affiliation; (III)
- d. Physician's name, telephone number, and address; (III)
- e. Dentist's name, telephone number, and address; (III)
- f. Name, address, and telephone number of next of kin or legal representative; (III)
- g. Name, address, and telephone number of person to be notified in case of emergency; (III)

h. Mortician's name, telephone number, and address; (III)

i. Pharmacist's name, telephone number, and address. (III)

59.19(2) *Resident clinical record.* There shall be a separate clinical record for each resident admitted to a skilled nursing facility with all entries current, dated, and signed. (III) The resident clinical record shall include:

- a. Admission record; (III)
- b. Admission diagnosis; (III)
- c. Physical examination: The record of the physical examination and medical history shall include resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential, results of tuberculin skin test or chest X ray, and other diagnostic procedures; (III)
- d. Physician's certification that the resident requires no greater degree of nursing care than the facility is licensed to provide; (III)

e. Physician's orders for medication, treatment, and diet in writing and signed by the physician; (III)

f. Progress notes:

(1) Physician shall enter a progress note at the time of each visit; (III)

(2) Other professionals, i.e., dentists, social workers, physical therapists, pharmacists, and others shall enter a progress note at the time of each visit; (III)

g. All laboratory, X-ray, and other diagnostic reports; (III)

h. Nurse's record including:

(1) Admitting notes including time and mode of transportation; room assignment; disposition of valuables; symptoms and complaints; general condition; vital signs; and weight; (II,III)

(2) Routine notes including physician's visits; telephone calls to and from the physician; unusual incidents and accidents; change of condition; social interaction; and P.R.N. medications administered including time and reason administered, and resident's reaction; (II,III)

(3) Discharge or transfer notes including time and mode of transportation; resident's general condition; instructions given to resident or legal representative; list of medications and disposition; and completion of transfer form for continuity of care; (II,III)

(4) Death notes including notification of physician and family to include time, disposition of body, resident's personal possessions and medications; and complete and accurate notes of resident's vital signs and symptoms preceding death; (III)

i. Medication record:

(1) An accurate record of all medications administered shall be maintained for each resident. (II,III)

j. Death record.

(1) The death record shall include name, age, sex, and race of deceased; date and time of death; physician's name, address, and signature; immediate cause of death; name and address of relative or legal representative notified of death; name, address, and signature of mortician receiving the body. (III)

(2) If the physician does not sign the death record, a copy of the death certificate shall be obtained by the facility as soon as it becomes available and made a part of the resident's medical record retained by the facility; (III)

k. Transfer form:

(1) The transfer form shall include identification data from the admission record, name of transferring institution, name of receiving institution, and date of transfer; (III)

(2) The nurse's report shall include resident attitudes, behavior, interests, functional abilities (activities of daily living), unusual treatments, nursing care, problems, likes and dislikes, nutrition, current medications (when last given), and condition on transfer; (III)

(3) The physician's report shall include reason for transfer, medications, treatment, diet, activities, significant laboratory and X-ray findings, and diagnosis and prognosis; (III)

l. Consultation reports shall indicate services rendered by allied health professionals in the facility or in health-centered agencies such as dentists, physical therapists, podiatrists, oculists, and others. (III)

59.19(3) Resident personal record. Personal records may be kept as a separate file by the facility.

a. Personal records may include factual information regarding personal statistics, family and responsible relative resources, financial status, and other confidential information.

b. Personal records shall be accessible to professional staff involved in planning for services to meet the needs of the resident. (III)

c. When the resident's records are closed, the information shall become a part of the final record. (III)

d. Personal records shall include a duplicate copy of the contract(s). (III)

59.19(4) Incident record.

a. Each skilled nursing facility shall maintain an incident record report and shall have available incident report forms. (III)

- b. Report of incidents shall be in detail on a printed incident report form. (III)
- c. The person in charge at the time of the incident shall prepare and sign the report. (III)
- d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)
- e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)
- f. A copy of the incident report shall be kept on file in the facility. (III)
- g. Incidents and accidents to residents and personnel shall be reviewed to identify health and safety hazards.

59.19(5) Retention of records.

- a. Records shall be retained in the facility for five years following termination of services. (III)
- b. Records shall be retained within the facility upon change of ownership. (III)
- c. The resident's records shall be kept confidential and shall be revealed only to persons authorized by law. (III)
- d. The resident's record shall be released to the individual's physician when the facility ceases to operate. (III)

59.19(6) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

59.19(7) Personnel record.

- a. An employment record shall be kept for each employee consisting of the following information: Name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, name and address of three references, position in the home, date and reason for discharge or resignation. (III)
- b. The personnel records shall be made available for review upon request by the department. (III)

470—59.20(135C) Resident care and personal services.

59.20(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

59.20(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II,III)

59.20(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

59.20(4) Residents shall receive kind and considerate care at all times and shall not be abused physically, mentally, or verbally in any way. (II)

59.20(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

59.20(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

59.20(7) Residents shall not have their personal lives regulated or controlled beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules and regulations. However, residents shall be encouraged to participate in the recreational programs. (III)

59.20(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of chapter 135C, Code of Iowa. (II,III)

59.20(9) Residents who are not bedfast shall be fully dressed each day to maintain self-esteem and promote a normal life style. (III)

470—59.21(135C) Rights of residents.**59.21(1) Visiting.**

- a. Visitors shall be permitted to visit residents at any reasonable time. (III)
- b. Each resident shall be permitted to have privacy with his visitors or the representative of the agency who has responsibility for his care. (III)

59.21(2) Religion.

- a. A resident's right to his own religious convictions or the absence of them shall not be infringed upon. (III)
- b. A resident's request to see a clergyman shall be honored. (III)
- c. The facility shall attempt to arrange for transportation for residents who desire to attend church services at no additional cost to the resident. (III)

59.21(3) Mail.

- a. Residents shall receive their mail unopened. (III)
- b. Outgoing mail shall not be censored, controlled, or restricted unless written authorization signed by the resident's legal guardian is on file in the facility. (III)
- c. Assistance with correspondence shall be provided when requested. (III)

59.21(4) Telephone. A telephone shall be accessible to the residents within the facility to make personal calls. (III)

59.21(5) Access.

- a. Living room and recreational areas shall be freely accessible to the residents at all reasonable times. (III)
- b. Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing for refusing such permission. (III)

470—59.22(135C) Nursing care.

59.22(1) Individual health care plans shall be based on the nature of the illness or disability, treatment, and care prescribed. Long and short term goals shall be developed by each discipline providing service, treatment, and care. These plans shall be in writing, revised as necessary, and kept current. They shall be made available to all those rendering the services and for review by the department. (III)

59.22(2) Nursing care shall be given by a registered nurse, licensed practical nurse, or other qualified, nonprofessional personnel. (II,III)

59.22(3) Residents shall be protected against hazards to themselves and others or the environment. All care relative to any degree of confusion, disorientation, forgetfulness, or communication disorder shall be provided on an individual basis. (II,III)

59.22(4) The facility shall provide resident and family education as an integral part of restorative and supportive care. (III)

59.22(5) The facility shall provide prompt response from qualified staff for the resident's use of the electrically-operated nurse call system. (II,III) (Prompt response being considered as no longer than fifteen minutes.)

470—59.23(135C) Required nursing services for residents. The program plan for skilled nursing facilities shall have the following required nursing services under the twenty-four hour direction of qualified nurses with ancillary coverage as set forth in these rules.

59.23(1) Activities of daily living:

- a. Bathing; (II,III)
- b. Daily oral hygiene (denture care); (II,III)
- c. Routine shampoo; (II,III)
- d. Nail care; (III)
- e. Shaving; (III)
- f. Daily care and application of prostheses (glasses, hearing aids, glass eyes, limb prosthetics, braces, or other assistive devices); (II,III)
- g. Ambulation with equipment if applicable, or transferring, or positioning; (I,II,III)
- h. Daily routine range of motion; (II,III)
- i. Mobility (assistance with wheelchair, mechanical lift, or other means of locomotion); (I,II,III)

470—59.25(135C) Pharmaceutical services committee.

59.25(1) The pharmaceutical services committee shall develop written policies and procedures for safe and effective drug therapy, distribution, control, and use. (III)

59.25(2) The committee shall be composed of at least the pharmacist, the health service supervisor, the administrator, and at least one physician. (III)

59.25(3) The committee shall make recommendations for improvement and monitor the pharmaceutical service to ensure accuracy and adequacy. (III)

59.25(4) The committee shall meet at least quarterly and retain minutes of all meetings. (III)

470—59.26(135C) Drugs, storage, and handling.

59.26(1) A bathroom shall not be used for drug storage. (III)

59.26(2) The drug storage cabinet shall be kept locked. (III)

59.26(3) The drug storage cabinet key shall be in the possession of the person directly responsible for issuing medications. (II,III)

59.26(4) Double-locked storage of schedule II drugs shall not be required under single-unit package drug distribution systems in which the quantity stored does not exceed a three-day supply and a missing dose can be readily detected. (II)

59.26(5) Drugs for external use shall be stored separately from drugs for internal use. (III)

59.26(6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items. A method for locking these medications shall be provided. (III)

59.26(7) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I,II)

59.26(8) All flammable materials shall be specially stored and handled in accordance with applicable local and state fire regulations. (II)

59.26(9) The individual charged with the responsibility of administering medications shall have knowledge of the purpose of the drug, its dangers, and contraindications. (II,III)

59.26(10) Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose and observing the actual act of swallowing the oral medication. (II) Also unless the unit dose system is used, medications shall be prepared on the same shift of the same day that the medication is administered. (II)

59.26(11) An accurate written record of medications administered shall be made by the individual administering the medication. (III)

59.26(12) Records shall be kept of all schedule II drug medications received and dispensed in accordance with the controlled drug and substance Act. (III)

59.26(13) Any unusual resident reaction shall be reported to the physician at once. (II)

59.26(14) A policy shall be established by the facility to govern the administration of prescribed medications to residents who are on leave from the facility. (III)

59.26(15) A cabinet with a lock, convenient to nursing service, shall be provided and used for storage of all drugs, solutions, and prescriptions. (III)

59.26(16) The cabinet shall have a work counter. Both counter and cabinet shall be well-lighted, shall be kept clean, and shall be well-organized. (III)

59.26(17) Running water shall be in close proximity to the drug storage cabinet. (III)

59.26(18) Emergency medication tray. A skilled nursing facility shall provide an emergency medication tray. (III) There shall be compliance with the following requirements:

a. Prescription drugs as well as nonprescription items in the tray must be prescribed or approved by the physician, in consultation with the pharmacist, who provides emergency service to the facility; (III)

b. The tray shall be stored in an accessible place; (III)

c. The tray shall contain a list of its contents and quantities of each item on the outside cover and within the box; (III)

d. The tray shall be closed with a seal which may be broken when drugs are required in an emergency or for inspection; (III)

e. Any item removed from the tray will be replaced within forty-eight hours; (III)

f. A permanent record shall be kept of each time the tray is utilized; (III)

g. The tray shall be inspected by a pharmacist at least once every three months to determine the stability of items in the tray. (III)

59.26(19) Drug handling.

a. Bulk supplies of prescription drugs shall not be kept in a skilled nursing facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

b. Inspection of drug storage condition shall be made by the health service supervisor and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the nurse and pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: Expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. If the facility permits registered nurses to dilute or reconstitute drugs at the nursing station, distinctive supplementary labels shall be available for the purpose. The notation on the label shall be made so as to be indelible. (III)

d. Dilution and reconstitution of drugs and their labeling shall be done by the pharmacist whenever possible. If not possible, the following will be carried out only by the registered nurse:

(1) Specific directions for dilution or reconstitution and expiration date should accompany the drug; (III)

(2) A distinctive supplementary label shall be affixed to the drug container when diluted or reconstituted by the nurse for other than immediate use. (III) The label shall bear the following :

Resident's name, dosage and strength per unit/volume, nurse's name, expiration date, and date and time of dilution. (III)

59.26(20) Drug safeguards:

a. All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. There shall be no medications or any solution in unlabeled containers. (II,III)

d. The medications of each resident shall be kept or stored in the originally received containers. (II,III)

e. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label of a drug container. (II,III)

f. When a resident is discharged or leaves the facility, the unused prescription shall be sent with him or with a legal representative only upon the written order of a physician. (III)

g. Unused prescription drugs prescribed for residents who have died shall be destroyed by a qualified nurse with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

h. Prescriptions shall be refilled only with the permission of the attending physician. (II,III)

i. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

j. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused schedule II drugs prescribed for residents who have died or for whom the schedule II drug was discontinued. (III)

k. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident's current medications. Discontinued drugs shall be destroyed by the responsible nurse with a witness and a notation made to that effect. Drugs listed under the schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II,III)

l. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The physician, in consultation with the pharmacist serving the facility, shall institute policies and provide procedures for review and endorsement of stop orders on drugs. This policy shall be conveniently located for personnel administering medications. (II,III)

m. No resident shall be allowed to keep in his possession any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so.

n. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided. (II)

o. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

p. A qualified nurse shall:

(1) Establish a medication schedule system which identifies the time and dosage of each medication prescribed for each resident. (II,III)

(2) Establish a medication record containing the information specified above needed to monitor each residents drug regimen. (II,III)

q. Telephone orders shall be taken by a qualified nurse. Orders shall be written into the resident's record and signed by the person receiving the order. Telephone orders shall be submitted to the physician for his signature within forty-eight hours. (III)

r. A pharmacy operating in connection with a skilled nursing facility shall comply with the provisions of the pharmacy law requiring registration of pharmacies and the regulations of the Iowa board of pharmacy examiners. (III)

s. In a skilled nursing facility with a pharmacy or drug supply, service shall be under the personal supervision of a pharmacist licensed to practice in the state of Iowa. (III)

59.26(21) Drug administration:

a. Controlled drugs, as defined in chapter 204, Code of Iowa, and injectable medications shall not be administered by anyone other than a qualified nurse or physician. (II)

b. An individual inventory record shall be maintained for each schedule II drug prescribed for each resident. (II)

c. The health service supervisor shall be responsible for the supervision and direction of all personnel administering medications. (II)

470—59.27(135C) Rehabilitative services.

59.27(1) Rehabilitative services shall be provided to maintain function or to improve the resident's ability to carry out the activities of daily living. (III)

59.27(2) Nursing personnel shall be trained in rehabilitative nursing. (III)

59.27(3) Rehabilitative nursing care services shall be performed daily for those residents who require such services and shall be recorded routinely. (III)

59.27(4) Written administrative and resident care policies and procedures shall be developed for rehabilitative services by appropriate therapists and representatives of the medical, administrative, and nursing staffs. (III)

59.27(5) The resident's physician shall receive a progress report within two weeks of the initiation of specialized rehabilitative services. (III)

59.27(6) Thereafter, the plan shall be reviewed and re-evaluated at least every thirty days by the physician and the therapist. (III)

59.27(7) The physician's orders, the plan of rehabilitative care, services rendered, evaluations of progress, and other pertinent information shall be recorded in the resident's medical record and dated and signed by the physician ordering the service and the person who provided the service. (III)

59.27(8) Physical therapy services:

a. Each facility shall have a written agreement with a licensed physical therapist to provide physical therapy services. (III)

b. Physical therapy shall be rendered only by a physical therapist licensed to practice in the state of Iowa. All personnel assisting with the physical therapy of residents must be under the direction of a licensed physical therapist. (II,III)

c. The licensed physical therapist shall:

(1) Evaluate the resident and prepare a physical therapy treatment plan conforming to the medical orders and goals; (III)

(2) Consult with other personnel in the facility who are providing resident care and plan with them for the integration of a physical therapy treatment program into the overall health care plan; (III)

(3) Instruct the nursing personnel responsible for administering selected restorative procedures between treatments; (III)

(4) Present programs in the facility's in-service education programs. (III)

d. Treatment records in the resident's medical chart shall include:

(1) The physician's prescription for treatment; (III)

(2) An initial evaluation note by the physical therapist; (III)

(3) The physical therapy care plan defining clearly the long-term and short-term goals and outlining the current treatment program; (III)

(4) Notes of the treatments given and changes in the resident's condition; (III)

(5) A complete discharge summary to include recommendations for nursing staff and family. (III)

e. There shall be adequate facilities, space, appropriate equipment, and storage areas as are essential to the treatment or examinations of residents. (III)

59.27(9) Other rehabilitative services:

a. The facility shall arrange for specialized and supportive rehabilitative services when such services are ordered by a physician. (III) These may include audiology and occupational therapy.

b. Before January 1, 1977, audiology services shall be under the direction of a qualified speech pathologist or audiologist who has a current certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association or equivalent. After January 1, 1977, audiology services shall be under the direction of a person licensed in the State of Iowa by the board of speech pathology and audiology. (II, III)

c. Occupational therapy services shall be under the direction of a qualified occupational therapist who is currently registered by the American Occupational Therapy Association. (II,III)

d. The appropriate professional shall:

(1) Develop the treatment plan and administer or direct treatment in accordance with the physician's prescription and rehabilitation goals; (III)

(2) Consult with other personnel within the facility who are providing resident care and plan with them for the integration of a treatment program into the overall health care plan. (III)

470—59.28(135C) Dental, diagnostic, and other services.

59.28(1) Dental services:

a. The skilled nursing facility personnel shall assist residents to obtain regular and emergency dental services. (III)

b. Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)

c. Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)

d. All dental reports or progress notes shall be included in the clinical record. (III)

e. Nursing personnel shall assist the resident in carrying out dentist's recommendations. (III)

f. Dentists shall be asked to participate in the in-service program of the facility. (III)

g. The skilled nursing facility shall have satisfactory arrangements with a dentist for participation by the dentist in the staff development program for nursing and other appropriate personnel, and for recommendations of oral hygiene policies and practices for the care of residents.

59.28(2) Diagnostic services:

a. The skilled nursing facility shall make provisions for promptly securing required clinical laboratory, X-ray and other diagnostic services. (III)

b. All diagnostic services shall be provided only on the written, signed order of a physician. (III)

c. Agreements shall be made with the local hospital laboratory or independent laboratory to perform specific diagnostic tests when they are required. (III)

d. Transportation arrangements for residents shall be made, when necessary, to and from the source of service. (III)

e. Copies of all diagnostic reports shall be requested by the facility and included in the resident's clinical record. (III)

f. The physician ordering the specific diagnostic service shall be promptly notified of the results. (III)

g. Simple tests such as customarily done by nursing personnel for diabetic residents may be performed in the facility. (III)

59.28(3) Other services:

a. The skilled nursing facility shall assist residents to obtain such supportive services as requested by the physician. (III)

b. Transportation arrangements shall be made when necessary. (III)

c. Services could include the need for prosthetic devices, glasses, hearing aids, and other necessary items. (III)

470—59.29(135C) Dietary.

59.29(1) Organization of dietetic service department. The facility shall meet the needs of the residents and provide the services listed in this standard. If the service is contracted out, the contractor shall meet all the standards. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

a. There shall be written policies and procedures for the dietetic service department that include staffing, nutrition, and menu planning; therapeutic diets; preparation; service; ordering; receiving; storage; sanitation; and hygiene of staff. The policies and procedures shall be kept in a notebook and made available for use in the dietetic service department. (III)

b. There shall be written job descriptions for each position in the dietetic service department. The job descriptions shall be posted or kept in a notebook and made available for use in the dietetic service department. (III)

59.29(2) Dietary staffing:

a. The facility shall employ a supervisor who has completed or is in the process of completing a minimum of ninety hours of approved training having overall supervisory responsibility for the dietetic service department. (II,III) The supervisor shall be allowed sufficient time for management responsibilities that include:

(1) Participation in regular conferences with consultant dietitian, administrator, and other department heads; (III)

(2) Writing menus with consultation from dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)

(3) Establishing and maintaining high standards for food preparation and service; (II,III)

(4) Participating in selection, orientation, and in-service training of dietary personnel; (II,III)

(5) Supervising activities of dietary personnel; (II,III)

(6) Maintaining up-to-date lists of residents identified by name, location, and diet order; (III)

(7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (III)

(8) Keeping records of repair of equipment in the dietetic service department. (III)

b. The facility shall employ sufficient supportive personnel to carry out the following functions:

(1) Preparing and serving adequate amounts of food that is handled in a manner to be bacteriologically safe; (II,III)

(2) Washing and sanitizing dishes, pots, pans, and equipment at temperatures required by procedures described elsewhere; (II,III)

(3) Serving of therapeutic diets as prescribed by the physician following guidelines in the diet manual approved by the nutrition section, department of health. (II,III)

c. The facility shall not assign personnel duties simultaneously in food service and laundry, housekeeping, or nursing service except in an emergency situation. If such a situation occurs, proper sanitary and personal hygiene procedures shall be followed as outlined under the rules pertaining to hygiene of staff. (II,III)

d. If the dietetic service supervisor is not a qualified dietitian or a dietetics, food, and nutrition or institution management major, a consultant dietitian is required. (III) (The consultant dietitian shall be a person who has received a baccalaureate degree with major studies in food service and nutrition and is preferably a registered member or is eligible for registration/membership in the American Dietetic Association and who participates annually in continuing dietetic education).

e. Consultant's visits are scheduled to be of sufficient duration and at a time convenient to work with nursing staff on resident care plans, consult with administrator and others on developing and implementing policies and procedures, work with dietetic supervisor on developing procedures, general and therapeutic menus, recipes and other management tools as well as planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department. (III)

59.29(3) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician's orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) "Food for Fitness, A Daily Food Guide," leaflet No. 424, U.S. Department of Agriculture (Revised July, 1973), can be used as a guide for planning meals which will generally meet the recommended dietary allowances. The four food groups listed below are the same as in leaflet No. 424, nutrition section, department of health, and the basic four food groups for menu planning in the 1975 edition of the "Simplified Diet Manual", Iowa State University Press, Ames Iowa. Recommended daily dietary allowances are:

(1) Milk—two or more cups served as beverage or used in cooking;

(2) Meat group— two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group—four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group—four or more servings of whole-grain enriched or restored;

(5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

c. At least three meals or their equivalent shall be served daily, at regular hours. (II)

(1) There shall be no more than a fourteen-hour span between substantial evening meal and breakfast. (II,III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II,III)

(3) If a three, four, or five-meal plan is in effect, the nutritional value provided shall meet recommended daily allowances. The night feeding shall include foods that are good sources of protein. (II)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for thirty days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

59.29(4) *Therapeutic diets:*

a. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual approved by the nutrition section, department of health, shall be readily available to attending physicians, nurses, and dietetic service personnel. This manual shall be used as a guide for writing menus for therapeutic diets. A dietitian or approved dietary consultant is responsible for writing the therapeutic menu and reviewing procedures for preparation and service of food. (III)

b. Personnel responsible for planning and serving simple therapeutic diets should receive instructions on those diets through training programs developed by the department or training programs which meet the department's approval. (III)

59.29(5) *Food preparation and service:*

a. Methods used to prepare food shall be those which conserve nutritive value, fresh flavor, and make an attractive appearance. (III)

b. Foods shall be attractively served. (III)

c. Foods shall be cut, chopped, ground, or blended to meet individual needs. (II,III)

d. Self-help devices shall be provided as needed. (II,III)

e. Table service shall be attractive. (III)

f. Dishes shall be free of cracks, chips, and stains. (III)

g. Hot food that is transported shall be covered. (III)

h. All perishable or potentially hazardous food that readily supports harmful bacterial growth, shall be maintained and stored at temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

59.29(6) *Dietary ordering, receiving and storage:*

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II,III)

b. The use of food from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

d. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a three-day period shall be maintained on the premises. "Family Food Plans," revised in 1974, Table 1, Low-Cost Food Plan, U.S. Department of Agriculture, shall be used as the established criteria for judging satisfactory compliance with minimum food portion requirements for residents. (II,III)

e. Records which show amount and kind of food purchased shall be retained for three months and shall be made available to the department upon request. (III)

f. Dry or staple food items shall be stored off the floor in a room not subject to sewage or waste water back-flow or contamination by condensation or rodents or vermin. (III)

g. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

59.29(7) Sanitation in food preparation area:

- a. "Food Service Sanitation Manual," 1975, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C., shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with food service sanitation.
- b. Residents shall not be allowed in the food preparation area. (III)
- c. The food preparation area shall not be used as a dining area for residents, staff, or food service personnel. (III)
- d. All foods, while being stored, prepared, displayed, served, or transported, shall be protected against contamination from dust, flies, rodents, and other vermin. (II,III)
- e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II,III)
- f. The top surface of tables and counters on which food is prepared or served shall be smooth, or tight-jointed material, or covered with impervious material in good repair, and shall be kept clean. Drain boards and counters used in wet areas should be of stainless steel. (III)
- g. There shall be effective written procedures established for cleaning all work and serving areas. (III)
- h. A schedule of cleaning duties to be performed daily shall be posted in each food area. (III)
- i. All cooking stoves shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)
- j. Spillage and breakage shall be cleaned up immediately. (III)
- k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)
- l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)
- m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, of light color and shall be kept clean. Walls and floors in wet areas should be moisture resistant. (III)
- n. There shall be no washing, ironing, sorting, or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leak-proof containers. (III)
- o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)
- p. There shall be no animals or birds in the food preparation area. (III)
- q. No dishes or cooking utensils shall be towel dried. (III)
- r. In facilities of fifteen or more beds, a mechanical dishwasher is required. (III)
- s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (76°C) to 180°F (82°C). The machine shall be provided with temperature gauges. (III)
- t. A three compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)
- u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust and other contaminants. (III)
- v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)
- w. All food preparation for meals and prescribed nourishments shall be performed in the food service department. Food prepared as a part of the activity program shall be done elsewhere. (III)

x. A mop and mop pail shall be provided for exclusive use in the dietetic service department, (III)

y. Sanitary procedures for clean-up and use of food service equipment shall be specified and implemented. (III)

59.29(8) *Hygiene of food service personnel.*

a. Food service personnel shall be free of communicable diseases and practice hygienic food handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II,III)

b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area. (III)

c. Hairnets shall be worn by all food service personnel. Individuals with beards shall provide for total enclosure of facial hair. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good handwashing techniques. A hand-wash basin shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

59.29(9) *Food and drink.* All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II,III)

59.29(10) *Dietetic service department—construction and equipment.* The construction and equipment of the dietetic service department shall comply with or exceed the minimum standards set forth in the Public Health Service Bulletin No. 934 as amended. The equipment shall meet the minimum standards of National Sanitation Foundation, or be of comparable construction and composition.

470—59.30(135C) *Social services program.*

59.30(1) The skilled nursing facility shall have satisfactory arrangements for identifying the medically related social and emotional needs of the resident. It is not mandatory that the skilled nursing facility itself provide social services. (III)

59.30(2) If the facility does not provide social services, it shall have written procedures for referring residents in need of social services to appropriate social agencies. (III)

59.30(3) If social services are offered by the facility, they shall be provided under a clearly defined plan, by qualified persons, to assist each resident to adjust to the social and emotional aspects of the residents illness, treatment, and stay in the facility. (III)

59.30(4) Policies and procedures shall be established for ensuring the confidentiality of all resident's social information. (III)

470—59.31(135C) *Resident activities program.*

59.31(1) Each skilled nursing facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)

e. The activity program shall include suitable activities for those residents unable to leave their rooms. (III)

f. The program shall be incorporated into the overall health care plan and shall be designed to meet the goals as written in the plan.

59.31(2) Co-ordination of activities program.

a. Each skilled nursing facility shall employ a person to direct the activities program. (III)

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

c. The activity co-ordinator shall have completed the activity co-ordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity co-ordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity co-ordinator is absent during scheduled working hours. (III)

59.31(3) Duties of activity co-ordinator. The activity co-ordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Co-ordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Individual resident progress notes recorded at regular intervals (at least every two months). A copy of these notes shall be placed in the resident's clinical record; (III)

(3) Monthly calendars, prepared in advance. (III)

d. Co-ordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

f. Provide input to the individual resident care plans. (III)

59.31(4) Activity supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

470—59.32(135C) Care review committee. Each facility shall establish a care review committee in accordance with section 135C.25, Code of Iowa, which shall operate within the scope of these rules and regulations for health care facilities. (III)

59.32(1) Purpose of care review committee.

a. The committee shall represent the rights of the consumer in the facility for determination of appropriate care, of services available in the facility, and the determination of any discriminative practices. (III)

b. The committee shall consider the needs of the residents in respect to the services the facility is authorized to render. (III)

c. The committee shall consist of at least three members and no more than five. (III)

d. The area wide health planning council shall appoint the members of the committee from individuals who have an interest in the provision of health care services and protection of dependent persons. After failure of the area wide health planning council to appoint

59.36(22) If a facility has a contract with an outside resource for housekeeping services, the facility and/or outside resource shall meet the above requirements. (III)

470—59.37(135C) Maintenance.

59.37(1) Each facility shall establish a maintenance program in writing to insure the continued maintenance of the facility, to promote good housekeeping procedures, and to insure sanitary practices throughout the facility. (III)

59.37(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

59.37(3) Draperies and furniture shall be clean and in good repair. (III)

59.37(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

59.37(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the national electrical code. (III)

59.37(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

59.37(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. Documentation of these inspections shall be available for review. (III)

59.37(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

59.37(9) The facility shall be kept free of flies, other insects and rodents. (III)

59.37(10) Maintenance personnel.

a. A written program shall be established for the orientation of maintenance personnel. (III)

b. Maintenance personnel shall:

(1) Follow established written maintenance programs; (III)

(2) Be provided with appropriate, well-constructed, and properly maintained equipment. (III)

470—59.38(135C) Laundry.

59.38(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

59.38(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

59.38(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

59.38(4) Resident's personal laundry shall be marked with an identification. (III)

59.38(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

470—59.39(135C) Garbage and waste disposal.

59.39(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

59.39(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

59.39(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

59.39(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

59.39(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

470—59.40(135C) Buildings, furnishings, and equipment.**59.40(1) Buildings—general requirements.**

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II,III)

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-fourth inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of residents' clothing. (III)

59.40(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)

c. Upholstery materials shall be moisture and soil resistant, except on furniture provided by the resident and the property of the resident. (III)

59.40(3) Dining and living rooms.

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in section 59.39(3) "e" of the rules are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least thirty square feet per licensed bed for the first one hundred beds and twenty-seven square feet per licensed bed for all beds in excess of one hundred. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably provided with parlor furniture, television and radio receivers in good working order, recreational material such as games, puzzles, and cards, and reading material such as current newspapers and magazines. Furnishings and equipment of the room should be such as to allow group activities. (III)

(3) Card tables or game tables shall be made available. The tables should be of a height to allow a person seated in a wheelchair to partake in the games or card playing. (III)

(4) Chairs of proper height and appropriate to their use shall be provided for seating residents at game tables and card tables. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) Dining tables and chairs shall be provided. (III)

(3) Dining tables should be so constructed that a person seated in a wheelchair can dine comfortably. (III)

(4) Tables shall be of sturdy construction with smooth, durable, nonpermeable tops that can be cleaned with a detergent sanitizing solution. (III)

(5) Dining chairs shall be sturdy and comfortable. Some arm chairs should be provided for ease of movement for some residents. (III)

(6) Residents shall be encouraged to eat in the dining room. (IOII)

59.40(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. Seventy-five per cent of the beds shall have a spring with adjustable head and foot section. (III)

b. Each bed shall be equipped with the following: Casters or glides; clean springs in good repair; clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average size; and moisture-proof covers and sheets as necessary to keep the mattress and pillows dry and clean. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. Clothing shall be hung in closets or wardrobes available in each room. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in his room. (III)

l. Each room shall have sufficient accessible mirrors to serve resident's needs. (III)

m. Sturdy, adjustable overbed tables shall be provided for each resident who is unable to eat in the dining room. (III)

n. There shall be privacy curtains available for use between each resident bed in multiple bedrooms. Portable screens are not an acceptable type of privacy curtain. (III)

o. Each resident bedroom shall have a door. The door shall be the swing type and shall not swing into the corridors. (III)

59.40(5) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

59.40(6) Water supply.

a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. The temperature of the hot water to the resident lavatories, baths, and showers shall not exceed 110°F (43°C). A 5° variable shall be acceptable. (III)

g. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department of health. (III)

h. There shall be procedures to insure water to all central areas in the event of loss of normal water supply. (III)

59.40(7) Nonambulatory residents.

a. All nonambulatory residents shall be housed on the grade level floor. (II,III)

b. These provisions in paragraph "a" above relating to nonambulatory residents are not applicable if the facility has a suitably sized elevator.

470—59.41(135C) Family and employee accommodations.

59.41(1) Children shall not be allowed into the service areas. (III)

59.41(2) The resident's bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

59.41(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

59.41(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

59.41(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

470—59.42(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

470—59.43(135C) Supplies.

59.43(1) Linen supplies.

a. There shall be an adequate supply of linen so that each resident shall have at least three wash cloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom of odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

59.43(2) *First aid kit.* A first aid emergency kit shall be available on each floor in every facility. (II,III)

59.43(3) Supplies and equipment for nursing services.

a. For purposes of consultation, the manual "Hospital and Nursing Home Equipment Planning Guide", P.H.S. Pub. No. 930-D-4, Revised 1967, U.S. Department of Health, Education, and Welfare, Public Health Service, Division of Hospital and Medical Facilities Architectural, Engineering, and Equipment Branch, Washington, D.C. 20201, shall be used for establishing the types and quantities of equipment and supplies needed for nursing services in skilled nursing facilities.

b. All nursing care equipment shall be properly sanitized or sterilized before use by another resident. (II)

c. There shall be disposable or one-time use items available appropriate to the size of the facility with provisions made for proper disposal so as to prevent their reuse. (III)

d. Convenient, safe storage shall be provided for bath and toilet supplies, bathroom scales, mechanical lifts, and shower chairs. (III)

e. Sanitary and protective storage shall be provided for all equipment and supplies. (III)

f. All items that must be sterilized shall be autoclaved unless sterile disposable items are furnished which are promptly disposed of after a single use. (II)

g. Supplies and equipment for nursing and personal care sufficient in quantities to meet the needs of the residents shall be provided and, as in a minimum, which include the following: (III)

Bath basins	Stethoscope
Soap containers	Ice caps
Denture caps	Hot water bottles
Emesis basins	Rectal tubes
Mouthwash cups	Catheters and catheterization equipment
Bedpans	Douche nozzle
Urinals	Oxygen therapy equipment
Enema equipment	Naso-gastric feeding equipment
Commodos	Wheelchairs
Quart graduate measure	Moisture-proof draw sheets
Thermometer for measurement of	Moisture-proof pillow covers
bath water temperature	Moisture-proof mattress covers
Mouth thermometer	Foot tubs
Rectal thermometer	Metal pitcher
Basins for sterilizing thermometers	Disinfectant solutions
Basins for irrigations	Alcohol
Asepto syringes	Lubricating jelly
Sphygmomanometer	Skin lotion
Paper towels	Applicators
Paper hankchiefs	Tongue blades
Insulin syringes	Toilet paper
2cc hypodermic syringes	Rubber gloves or disposable gloves
Hypodermic needles	Suction machine
Tourniquet	Portable linen hampers
Medicine dispensing containers	Denture identification equipment
Bandages	Tracheotomy care equipment
Adhesive	

470—59.44(135C) Resident's responsibilities and entitlements.

59.44(1) The governing body of the facility shall establish written policies regarding the rights and responsibilities of residents and, through the administration, shall be responsible for development of, and adherence to, procedures implementing such policies. (III)

59.44(2) These policies and procedures shall be made available to residents, to any guardians, next of kin, sponsoring agency(ies) and the public. (III)

59.44(3) The staff of the facility shall be trained and involved in the implementation of these policies and procedures. (III)

59.44(4) These resident's rights, policies, and procedures ensure that, at least, each resident admitted to the facility:

a. Is fully informed, as evidenced by the resident's written acknowledgement, prior to or at the time of admission and during stay, of these rights and of all rules and regulations governing resident conduct and responsibilities; (III)

b. Is fully informed, prior to or at the time of admission and during stay, of services available in the facility and of related charges including any charges for services not covered by the facility's basic per diem rate; (III)

c. If fully informed, by a physician, of his or her medical condition unless medically contraindicated (as documented, by a physician, in the medical record), and is afforded the opportunity to participate in the planning of his or her medical treatment and to refuse to participate in experimental research; (III)

d. Is transferred or discharged only for medical reasons, or for his or her welfare or that of other residents, and is given reasonable advance notice to ensure orderly transfer or discharge, and such actions shall be documented in the medical record; (III)

e. Is encouraged and assisted, throughout the period of stay, to exercise rights as a resident and as a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and/or outside representative of his or her choice, free from restraint, interference, coercion, discrimination, or reprisal; (III)

f. May manage his or her personal financial affairs, or is given at least a quarterly accounting of financial transactions made on his or her behalf by the facility for any period of time in conformance with state law; (III)

g. Is free from mental and physical abuse, and free from chemical and (except in emergencies) physical restraints except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the resident from injury to self or to others; (III)

h. Is assured confidential treatment of personal and medical records, and may approve or refuse their release to any individual outside the facility, except, in case of transfer to another health care institution, or as required by law or third-party payment contract; (III)

i. Is treated with consideration, respect, and full recognition of his or her dignity and individuality, including privacy in treatment and in care for personal needs; (III)

j. Is not required to perform services for the facility that are not included for therapeutic purposes in the plan of care; (III)

k. May associate and communicate privately with persons of his or her choice; (III)

l. May meet with, and participate in activities of social, religious, and community groups at his or her discretion unless medically contraindicated (as documented by his or her physician in the medical record); (III)

m. May retain and use personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents and unless medically contraindicated (as documented by his or her physician in the medical record); (III)

n. If married, is assured privacy for visits by his or her spouse; if both are inpatients in the facility, they are permitted to share a room, unless medically contraindicated (as documented by the attending physician in the medical record.) (III)

59.44(5) All rights and responsibilities specified in 59.44(1) to 59.44(4) shall devolve to the guardian or next of kin of residents who fall into the following categories:

a. A resident adjudicated incompetent in accordance with the provisions of the Code;

b. A resident who is found, by his or her physician, to be medically incapable of understanding these rights; Or

c. A resident who exhibits a communication barrier.

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CHAPTER 60

Reserved

CHAPTER 61

PHYSICAL STANDARDS OF INTERMEDIATE CARE FACILITIES

470—61.1(135C) General requirements.

61.1(1) Intermediate care facilities shall contain the facilities described herein and shall be built in accordance with construction requirements outlined. Facilities available through affiliation with connected hospital need not be duplicated. (III)

and soiled linen receptacles, and a two-compartment sink shall be provided. One compartment of the double sink shall be a minimum of eleven inches (27.5 cm) deep for the cleaning and sanitizing of equipment such as bedpan, urinals, and wash basins. (III)

h. Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface; (III)

i. A medicine room that can be locked, adjacent to the nurses' station, with sink, refrigerator, locked storage, and facilities for preparation of medication shall be provided; (II,III)

(1) A chest or compartment with a lock shall be built within the locked storage for Schedule II drugs; (II)

(2) The medicine room should be large enough for the storage of a self-contained medicine dispensing unit. (Exception No. 3) (III)

j. Clean linen storage, separate from the clean workroom shall be provided; (III)

k. An equipment storage room for each nursing unit for immediate storage of walkers, wheelchairs, bed rails, intravenous stands, inhalators, air mattresses, and similar bulky equipment shall be provided. The area of this storage room may be used in calculating the total required general storage area as found in 61.12(1). (III)

l. A stretcher and wheelchair parking area or alcove shall be provided. (Exception No. 2) (III)

61.4(5) Resident toilet rooms.

a. Water closets must be easily usable by handicapped residents. A maneuvering area in front of the water closet must be a minimum of thirty-two inches (80 cm) by thirty-two inches (80 cm). (Exception No. 3) (III)

b. Grab bars shall be provided at all water closets. (II,III)

c. All toilet rooms shall have a door. (III)

d. Doors to a toilet room shall be a minimum width of two feet ten inches (86.3 cm) to admit a wheelchair. The doorway to toilet rooms must have a minimum clear opening of thirty-two inches (80 cm). (Exception No. 2) (III)

e. All toilet rooms shall have mechanical ventilation. (Exception No. 2) (III)

470—61.5(135C) Resident dining room, activity and recreation areas.

61.5(1) The total areas for residents' dining, activities, and recreation purposes shall not be less than thirty square feet (2.79 square meters) per bed for the first one hundred beds and twenty-seven square feet (2.51 square meters) per bed for all beds in excess of one hundred. (III)

61.5(2) If the dining and the lounge-recreation areas are separated, each area shall:

a. Provide a minimum of one hundred eighty square feet (16.7 square meters) of usable floor space and be not less than ten feet (3.05 m) in any one dimension; (III)

b. Provide a minimum of fifteen square feet (1.35 square meters) of area per licensed bed or provide accommodations for seating of at least 75 percent of the residents in the dining room at one time. (III)

61.5(3) Areas appropriate for the activities program shall be provided which shall:

a. Be readily accessible to wheelchair and ambulatory residents; (III)

b. Be of sufficient size to accommodate necessary equipment and to permit unobstructed movement of wheelchairs, residents, and personnel responsible for instructing and supervising residents; (III)

c. Have space to store recreational equipment and supplies for the activities program within, or convenient, to the area or areas. Locked storage shall be available for potentially dangerous items such as scissors, knives, and toxic materials. (II,III)

61.5(4) A minimum of twenty-five square feet (2.25 square meters) per bed of outside recreation area shall be provided. Open air porches or roof gardens and decks may be included in meeting this requirement. (III)

470—61.6(135C) Personal care room.

61.6(1) A personal care room with barber and beauty shop facilities shall be provided. (III)

61.6(2) In facilities of less than one hundred beds a multipurpose room with appropriate space and equipment may be utilized for such activities. (III)

470—61.7(135C) Isolation room.

61.7(1) At least one single room with private toilet shall be provided for purposes of isolation or incompatibility with other residents in the home. This room will be used for emergency purposes and for short, intermittent periods of time. (III)

61.7(2) The bed in the isolation room shall be counted in the total licensed bed capacity of the facility. The resident of such room shall be informed, and it shall be contained in the resident's contract, that the resident is subject to removal from the room when it becomes necessary to isolate a resident of the facility. If, in the determination of the department, the facility is not making proper use of the isolation room when isolation is deemed necessary, the department may choose not to license that bed in order to promote effective and sufficient isolation methods and procedures.

470—61.8(135C) Janitor's closet.

61.8(1) A janitor's closet on each resident-occupied floor, appropriate to the size and needs of the facility, shall be provided for storage of housekeeping supplies and equipment, including a floor receptor or service sink. (III)

61.8(2) The door to the janitor's closet shall be equipped with a lock. (III)

470—61.9(135C) Dietetic service area.

61.9(1) Detailed layout plans and specifications of equipment shall be submitted to the department for review and approval before the new construction, alterations, or additions to existing kitchens begin. (III)

61.9(2) The construction and installation of equipment of the dietetic service area shall comply with, or exceed, the minimum standards set forth in the Public Health Service Publication No. 934 as amended. The equipment shall meet the minimum standards of the National Sanitation Foundation or be of comparable construction and composition. (III)

61.9(3) The dietetic service area shall provide food serving facilities for residents and staff outside of the food preparation area. (III)

61.9(4) The dishwashing area shall be provided with mechanical dishwashing equipment designed to handle racks that are coordinated with mobile dish storage equipment: (II,III)

a. Wash water in mechanical equipment between 140°F and 160°F (60°-71°C) and rinse water between 170°F and 180°F (76°-82°C) shall be provided during the wash and rinsing process; (Exception No. 2) (II,III)

b. A three-compartment pot and pan sink shall be provided for warewashing which provides and maintains 110°-115°F (43°-46°C) water for washing and 170°-180°F (76°-82°C) for sanitizing, or a two-compartment sink shall be provided for soaking and washing utensils, with easy access to dish machine which must be large enough for sanitizing all sizes of utensils used. (II,III)

61.9(5) The dietetic service area shall be designed so that there is a separation of clean and dirty areas, and a continuous flow of work from dirty to clean without crossing through food preparation and serving areas. (Exception No. 2) (II)

61.9(6) A handwashing lavatory without mirror shall be provided in the dietetic service area. (Exception No. 2) (III)

61.9(7) There shall be refrigerated storage for at least a three day supply of perishable food. (III)

61.9(8) There shall be available storage for at least a seven day supply of staple food. (III)

61.9(9) A cart storage area shall be provided. (III)

61.9(10) Waste disposal units shall be provided. (III)

61.9(11) Washing facilities for garbage cans shall be available when disposable can liners are not used. Water and a drain shall be available on the premises for washing garbage cans. (III)

61.9(12) There shall be a dietitian's work area including space for at least a desk, chair, and file cabinet..(Exception No. 2) (III)



American Society for Testing and Materials (ASTM) Standard No. E90, Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Floors and Walls.

American Society for Testing and Materials (ASTM) Standard No. E 119, Methods of Fire Tests of Building Construction and Materials.

International Conference of Building Officials (ICBO) Uniform Building Code Volume 1.

Iowa State Building Code.

Iowa State Plumbing Code.

National Fire Protection Association (NFPA) Standard No. 70, National Electrical Code.

National Fire Protection Association (NFPA) Standard No. 82, Standard for Incinerators.

National Fire Protection Association (NFPA) Standard No. 90A, Installation of Air Conditioning and Ventilating Systems.

National Fire Protection Association (NFPA) Standard No. 101, Life Safety Code.

Public Health Service (PHS) Publication No. 934, Food Service Sanitation Manual.

Underwriters' Laboratories, Inc. (UL) Publication No. 181, Air Ducts.

United States of America Standards Institute (USASI) Standard No. A117.1-1961, American Standard Specifications for Making Buildings and Facilities Accessible To, and Usable by, the Physically Handicapped.

Copies of nongovernment publications can be obtained from the various agencies at the addresses listed:

American Society of Mechanical Engineers, and American Society of Heating, Refrigerating and Air-Conditioning Engineers

United Engineer Center

345 East 47th Street

New York, New York 10017

American Society for Testing and Materials

1916 Race Street

Philadelphia, Pennsylvania 19013

International Standards Organization (USA Headquarters, United States of American Standards Institute)

10 East 40th Street

New York, New York 10016

National Electrical Manufacturers Association

155 East 44th Street

New York, New York 10017

National Fire Protection Association

60 Batterymarch Street

Boston, Massachusetts 02110

Underwriters' Laboratories, Inc.

207 East Ohio Street

Chicago, Illinois 60611

United States of America Standards Institute

(Formerly American Standards Association, Inc.)

10 East 40th Street

New York, New York 10016

National Sanitation Foundation

P.O. Box 1468

Ann Arbor, Michigan 48106

Illuminating Engineering Society

1860 Broadway

New York, New York 10023

Except as noted in the list, copies of government publications can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

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Chapters 62 to 65
Rescinded, effective 9/27/76

CHAPTERS 66 to 70
Reserved

TITLE XI
MOBILE HOME PARKS

CHAPTER 71
LICENSING AND RESTRICTIONS

470—71.1(135D) Authority. Under the provisions of section 135D.16 of the Code, the following rules governing the licensing and regulation of mobile home parks have been promulgated.

470—71.2(135D) Definitions.

71.2(1) "*Department*" is the state department of health which is the legally designated authority providing for licensing, inspection, and regulation of mobile homes and mobile home parks.

71.2(2) "*Independent mobile home*" is a mobile home which has a water closet and a bathtub or shower.

71.2(3) "*Dependent mobile home*" is a mobile home which does not have a water closet, nor a bathtub or shower.

71.2(4) "*Mobile home space*" is a plot of ground within a mobile home park designated for the accommodation of one mobile home.

71.2(5) "*Independent mobile home space*" is a mobile home space which has individual water and sewer connections available.

71.2(6) "*Dependent mobile home space*" is a mobile home space which does not have individual water and sewer connections available.

139.1(12) The following is the schedule of questions to be submitted to the candidates for examination:

Anatomy, bacteriology, chemistry, clinical and practical podiatry, podiatric medicine, diagnosis, dermatology, histology, materia medica, neurology, orthopedics, pathology, pharmacy, physiology, physiotherapy, roentgenology, surgery and others as prescribed by the board of podiatry examiners.

139.1(13) There shall be assigned a time and place to each candidate for the purpose of being given an oral examination by the board of examiners in the following subjects: Personal history, ethics, theory in practice.

139.1(14) The board of examiners shall file with the department a brief summary and estimation of the answers to the oral examination of each candidate.

139.1(15) A general average of not less than seventy-five percent of the correct answers will be required to pass, but no certificate will be granted to an applicant whose grade is below seventy percent in any one subject.

139.1(16) Any candidate failing to pass in his first examination shall be entitled to a second examination within fourteen months without filing a new application and fee, but for all examinations subsequent to the second one, a new application and fee of twenty dollars shall be required.

139.1(17) At the conclusion of the examination each candidate will be required to sign the following:

Declaration of Honorable Conduct in Taking Examination:

We, the undersigned, each and severally declare that we are applicants for certificates from the Iowa State Department of Health as certified to it by the State Board of Podiatry Examiners authorizing us to practice Podiatry in Iowa, and that we were present and took the examination held at, Iowa, on, 19.....

We further declare we neither received nor extended any aid to others nor resorted to any means whatsoever to secure the required ratings to enable us to pass.

We further declare that we did not see any of the sets of questions used at this examination until they were handed out by the examiners.

139.1(18) *Citizenship.* All applicants for licensure must be citizens of the United States or have taken out first naturalization papers.

470—139.2(147, 149) Rules concerning reciprocal agreements.

139.2(1) All applications for license by reciprocal agreement must be made on the official forms supplied by the state department of health.

139.2(2) This application properly and completely filled out must then be filed with the secretary of the state board of examiners fifteen days prior to the date of the examiners' regular meeting usually held in June or in person to the secretary of the board at his office in the interim. This application must be accompanied with the fee of forty dollars.

139.2(3) Each application will require attached thereto a photostatic copy of their diploma from the podiatry college from which they graduated, and a photostatic copy of their license from the state from which they are applying. Further, there shall be furnished and attached a complete transcript of credits and grades from their school plus a certified copy of their grades from their state board examination.

139.2(4) No person is eligible to apply for a license by reciprocal agreement in Iowa unless he can present satisfactory evidence of having practiced at least two years in the state from which he is applying.

139.2(5) No temporary certificate or special permits to practice podiatry shall be issued. The filing of application does not grant an applicant any privilege to practice podiatry in any manner whatsoever in the state of Iowa.

139.2(6) A license to practice podiatry in the state of Iowa by a reciprocal agreement shall be granted to an applicant only on the same basis on which such other state grants a certificate to an applicant from this state.

139.2(7) No license by reciprocal agreement shall be given to an applicant from another state that does not have educational requirements on a par with the Iowa podiatry law.

139.2(8) No license by reciprocal agreement shall be granted to an applicant unless he can furnish satisfactory evidence of membership in good standing in his state and national associations.

[Filed prior to July 1, 1952]

CHAPTER 140 Reserved

CHAPTER 141 CHIROPRACTIC EXAMINERS

470—141.1(151) Definitions.

141.1(1) "*Profession*" shall mean chiropractic.

141.1(2) "*Board*" shall mean the board of chiropractic examiners.

141.1(3) "*Licensed*" when applied to a chiropractor, shall mean a person licensed under this title.

141.1(4) "*Department*" means the state department of health.

470—141.2(151) Availability of information.

141.2(1) All information regarding rules, forms, time and place of meetings, minutes of meetings, records of hearings, examination dates, requirements for examination and examination results are available to the public between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday except holidays, under the supervision of the secretary to the board of chiropractic examiners.

141.2(2) Copies of all forms and information may be obtained by writing to the Board of Chiropractic Examiners, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

470—141.3(151) Composition of board. The board shall be composed of seven persons.

141.3(1) Five members shall be licensed to practice chiropractic.

141.3(2) Two members of the board shall not be licensed to practice chiropractic and shall represent the general public.

470—141.4(151) Organization of the board and procedures.

141.4(1) Officers shall be selected annually, by members of the board.

141.4(2) "*Chairperson*" shall preside at all meetings of the board. Shall have power to vote. Shall appoint committees when necessary to study issues, and shall follow Robert's Rules of Order.

141.4(3) "*Vice chairperson*" shall act in the capacity of chairperson in the absence of that officer.

141.4(4) "*Secretary*" shall keep an accurate and complete record of all transactions of the board.

Copies of all such records will become public record and will be on file in the board office, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

141.4(5) "*Superintendent of Examinations*" shall supervise the examination and make arrangements for the holding of the examinations in a proper manner.

141.4(6) "*Quorum*" a majority of the members of the board shall constitute a quorum, four. Business will not be conducted unless a quorum is present.

141.4(7) The per diem rate of forty dollars is set for the board.

470—141.5(151) Meetings of the board.

141.5(1) Meetings will be held on a regular basis on the day prior to the next examination.

141.5(2) One business meeting will be held in Des Moines each year, time and place will be announced at least thirty days prior to said meeting.

141.5(3) Special meeting dates may be set by a majority vote of the board, or by the chairman, with the approval of at least two members of the board at a place and date established by the board.

141.5(4) Regular meeting dates may be altered by a majority vote of the board along with proper notice to the public.

470—141.6(151) Rules of examination.

141.6(1) Examinations given by the board will be held on the first Monday, Tuesday and Wednesday of April, August, and December, at the Palmer College of Chiropractic in Davenport, Iowa, unless otherwise specified by the board.

141.6(2) All applicants matriculating after October 1, 1975 will be a graduate from a college having status with the C.C.E. (Council on Chiropractic Education) or its successor, or from a college which meets equivalent standards thereof (see rules on schools).

141.6(3) All applicants must file a completed application with the board at least fifteen days prior to the examination, along with a fee of one hundred dollars and the following documents:

a. A copy of chiropractic diploma (no larger than 8½ x 11 inches).

b. A copy of high school diploma (no larger than 8½ x 11 inches).

c. Official transcript of grades of the National Board.

d. The applicant shall have achieved diplomate status with the National Board of Chiropractic Examiners after July 1, 1973, or a Basic Science Certificate issued prior to July 1, 1973 and which after August 1, 1976 shall include the para-chiropractic therapeutic section of said National Board.

e. Each applicant shall attach three written character references to the application. Said references shall not be from members of the chiropractic profession.

141.6(4) The board shall examine the applicant's practical, clinical and technical abilities, including such areas as adjusting musculoskeletal structures, palpation, physical examination, para-chiropractic therapeutic application of heat, cold, exercise and supports, principles and practice, symptomatology and diagnosis, x-ray: All as taught in approved chiropractic colleges accredited by the Council on Chiropractic Education.

141.6(5) The passing grade for each subject of the practical examination given by the board shall be seventy percent and an overall average of seventy-five percent shall be attained.

141.6(6) An applicant who fails a second examination may take a subsequent examination at the discretion of the board.

141.6(7) An applicant detected seeking or giving improper help with the examination will be dismissed and the examination collected. The person may reapply and return for examination following a waiting period of one year. A new examination fee will be required.

141.6(8) Examination number. Before commencing the examination each applicant will be given a confidential number which shall be inscribed at the left-hand corner of each page of the manuscript; no other marks shall be placed on any paper whereby the identity of the candidate may become known. Pages are to be numbered in the upper right-hand corner.

141.6(9) Any failing paper must be reviewed by the entire board (professional members only).

470—141.7(151) Reciprocity. The board shall at least annually review reciprocity with other states.

470—141.8(151) Rules pertaining to schools.

141.8(1) Rules pertaining to the practice of chiropractic at a chiropractic college clinic shall be equal to the standards established by the Council on Chiropractic Education existing as of July 1, 1976.

141.8(2) All chiropractic colleges in order to be approved by the board of chiropractic examiners shall have status with the Commission on Accreditation of the Council on Chiropractic Education, or one that meets equivalent standards thereof.

141.8(3) The following procedures are established for an institution to obtain equivalent approval by the board of examiners:

a. Standards. The standards against which the institution will be evaluated shall be equivalent to those published and utilized by the Council on Chiropractic Education existing as of July 1, 1976.

b. Self-study. A comprehensive self-study shall be required of the applying institution which measures its performance against the objectives of the institution and the standards of the board of examiners. After review of the self-study the board shall render a decision that the self-study is either: (1) Satisfactory. (2) Unsatisfactory in terms of the report, or (3) Unsatisfactory in terms of content. If unsatisfactory, the board will furnish the institution with a bill of particulars. An inspection of the institution shall not be made until the self-study is satisfactory.

c. Inspection. Inspection of the institution shall be conducted by an examining team selected by the board and shall consist of a minimum of five members. Two shall have doctorates in the basic sciences; one shall have a doctorate in college administration, and two shall be doctors of chiropractic.

(1) The inspection team shall determine firsthand if the applicant institution meets the established standards and is meeting its own institutional objectives.

(2) Expenses of the inspection team shall be borne by the applicant institution.

(3) The inspection team shall furnish the board with a comprehensive report of the team findings after having provided the institution with opportunity to comment on its findings.

d. Decision. The entire board of examiners will make its decision on the basis of the comprehensive report of the inspection team after providing the institution opportunity for a hearing on the report. If a member of the board has participated in the inspection, he shall not participate in the decision-making process.

470—141.9(151) General.

141.9(1) Each license year shall be from July 1 to June 30.

141.9(2) The board shall assess a penalty equal to the renewal fee if more than thirty days has passed since the expiration date.

141.9(3) Any licensee who allows the license to lapse by failing to renew within one year of the expiration date shall be required to have the board's approval to pay the penalty set forth in 141.9(2) and all past renewal fees then due.

141.9(4) The board may affiliate with the Federation of Chiropractic Licensing Boards.

141.9(5) Any official action or vote of the board taken by mail or by other means shall be preserved by the secretary in the same manner as the minutes of the regular meetings.

141.9(6) Any legal proceedings where applicable shall be conducted in a manner as stipulated in chapters 17A, 147, 151.

470—141.10(151) Licensure fees.

141.10(1) Fees shall be paid for fiscal year July 1 to June 30 of each year.

a. Examination fee for license to practice chiropractic \$100.00.

b. Examination fee for license by reciprocity \$100.00.

c. Renewal of a license to practice chiropractic \$20.00.

d. Certification of grades of a licensee \$5.00.

e. Fee for a duplicate license \$5.00.

141.10(2) Reserved.

470—141.11(151) Notice and hearing.

141.11(1) Any proposed action by the board placing a license of a chiropractor on probation for violation of section 151.7 of the Code shall be communicated to the licensee by certified mail, return receipt requested, and addressed to the last known place of business or residency at least thirty days prior to the hearing on the proposed action.

141.11(2) Notice of hearing shall include but not be limited to:

a. A statement of the time, place, and nature of the hearing.
b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. A short and plain statement of the matters asserted. If the board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

141.11(3) If a licensee fails to appear at the hearing, after proper service of notice, the person or persons conducting the hearing, if no adjournment is granted, may proceed with the hearing and make a decision in the absence of the licensee.

141.11(4) Informal settlements. A licensee may communicate to the board, in writing, within fifteen days after receipt of notice, that he or she will not appear at the hearing and does not contest the case. This will be taken as a default and the board may enter a ruling. If the licensee wishes to enter into an informal settlement on the matter he or she shall do so within fifteen days after receipt of the notice. The procedure shall be stayed until a settlement is reached or negotiations have ceased. If a settlement is reached it shall be signed by all parties.

141.11(5) Subpoenas—discovery.

a. The board shall have subpoena powers. Prior to the commencement of a proceeding the board shall have authority to subpoena books, papers, records and any other real evidence necessary for the board to determine whether it should institute such a proceeding. After the commencement of a proceeding, the board shall have authority to administer oaths and to issue subpoenas. Discovery procedures applicable to civil actions shall be available to all parties in such proceedings. Evidence obtained in such discovery may be used in the hearing. The subpoenas shall be issued to a party on request.

b. If the board relies on a witness in a contested case, whether or not an employee of the board, who has made prior statements or reports with respect to the subject matter of the witness' testimony, shall, on request, make such statements or reports available to licensees for use on cross-examination unless those statements or reports are otherwise expressly exempt from disclosure by constitution or statute. Identifiable records of the board that are relevant to disputed material facts involved in a hearing, shall, upon request, promptly be made available to a licensee unless the requested records are expressly exempt from disclosure by constitution or statute.

141.11(6) Hearing officer. The hearing may be before the board or any number of members of the board designated by the chairman to take testimony and conduct the hearing or a hearing officer as provided by the Code of Iowa. A full and complete record shall be kept of all proceedings. A report, in whole, together with any exhibits produced, shall be furnished to the board at its next regular or special meeting.

141.11(7) Final decisions—proposed decisions—review by board—conclusiveness.

a. When the board presides at the reception of evidence in a hearing, the decision of the board is a final decision.

b. When the board does not preside at the reception of evidence in a hearing, the hearing officer shall make a proposed decision. The board will then have the right, within fifteen days, upon its own motion, to ask for a review. A licensee may also have a period, not to exceed fifteen days, in which to make an appeal or ask for a review. This shall be accomplished by filing a notice of appeal with the board.

c. If either party asks for a review, an opportunity shall be afforded to each party to file

exceptions, present briefs, and, with the consent of the hearing officer, present oral arguments to such officer.

d. If no appeal or motion of review is filed within the allotted time the decision of the hearing officer shall be considered final.

141.11(8) Decisions and orders—rehearing.

a. A proposed or final decision shall be rendered within fifteen days following hearing. Parties shall be promptly notified of each proposed or final decision or order by certified mail with receipt requested.

b. Any party may file an application for a rehearing, stating the specific grounds therefor and the relief sought, within twenty days after issuance of any final decision by the board. A copy of such application shall be mailed to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the board grants the application within twenty days after its filing.

470—141.12(151) Petition to promulgate, amend or repeal a rule.

141.12(1) An interested person may petition the board to promulgate, amend or repeal a rule.

141.12(2) The petition shall be typed, signed by or on behalf of the petitioner, and contain a detailed statement of:

a. The rule the petitioner is requesting the board to promulgate, amend or repeal. Where amendment of an existing rule is sought, that rule shall be set forth in full with matter proposed to be deleted therefrom enclosed in brackets and proposed additions thereto shown by underlining.

b. Facts in sufficient detail to show the reasons for adoption, amendment or repeal.

c. All propositions of law to be asserted by petitioner.

d. Sufficient facts to show how petitioner will be affected by the requested action.

e. The name and address of the petitioner.

141.12(3) The petition shall be deemed filed when received by the board.

141.12(4) Upon receipt of the petition the board:

a. Shall advise petitioner that he or she has thirty days in which to submit written views.

b. May schedule oral presentation of petitioner's views.

c. Shall, within sixty days after submission of the petition, either deny the petition or initiate rulemaking procedures.

141.12(5) In the case of a denial of a petition to promulgate, amend or repeal a rule, the board shall issue an order setting forth its reasons for such denial. The order shall be mailed to the petitioner.

470—141.13(151) Declaratory rulings.

141.13(1) Upon petition filed by an interested person, corporation, partnership, firm, organization or governmental agency, the board may issue a declaratory ruling as to the applicability of state statutes and rules, policy statements, decisions and orders of the board.

141.13(2) The petition shall be typewritten and shall indicate on the first page that it is a petition for declaratory ruling.

141.13(3) The petition shall include the name, address, phone number and official title, if any, of the petitioner. It shall also be indicated whether the petition is on behalf of a corporation, partnership, organization or the like.

141.13(4) The body of the petition shall contain:

a. A detailed statement of the facts upon which petitioner requests the department to issue its declaratory ruling;

b. The statute, rule, policy statement, decision or order for which petitioner seeks a declaratory ruling;

c. The exact words, passages, sentences or paragraphs of statutes, rules, policy statements, decisions or orders which are the subject of inquiry;

e. A consecutive numbering of each of multiple issues presented for declaratory ruling beginning with number one.

141.13(5) The petition shall be filed with the board at its office in Des Moines, Iowa.

141.13(6) The board shall acknowledge receipt of petitions or return them within twenty days of the filing when not prepared in reasonable compliance with the above.

141.13(7) The board may decline to issue a declaratory ruling in whole or in part.

a. The reasons the board may decline to fulfill a request for a declaratory ruling include but are not necessarily limited to the following:

(1) Lack of jurisdiction.

(2) Lack of clarity of the issue presented.

(3) No clear answer determinable.

b. In the event the board declines to make a ruling, it shall notify the petitioners in writing that it declines the request for a declaratory ruling in whole or in part and shall specify the reasons therefor.

141.13(8) The board may provide an opportunity for interested parties to submit written comments concerning the petition.

141.13(9) When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition.

a. Rulings shall be written and mailed to petitioner. Rulings may be mailed to other interested parties at the board's discretion.

b. Rulings shall be indexed for public inspection.

c. Rulings shall be issued within ninety days of filing, excepting that an additional thirty days may be used when extenuating circumstances arise and petitioner is notified.

141.13(10) A person or organization for which a declaratory ruling was issued may, within thirty days following the issuance of that declaratory ruling, petition for reconsideration of the matter.

141.13(11) A petition for reconsideration shall conform to the rules of this chapter and shall contain the specific reasons for the request to reconsider.

141.13(12) A petition for reconsideration of a declaratory ruling shall be deemed to have been denied unless the board grants a reconsideration, in writing, within thirty days after filing for the reconsideration.

[Filed December 15, 1952]

[Filed 9/27/76, Notice 6/14/76—published 10/20/76, effective 11/24/76]

CHAPTER 142

Reserved

CHAPTER 143

OPTOMETRY EXAMINERS RECIPROCITY OR INTERSTATE ENDORSEMENT

470—143.1(147) Rules for examinations.

143.1(1) All applicants for examination shall apply to the State Department of Health, Lucas Building, Des Moines, Iowa 50319 for application forms.

143.1(2) The forms properly filled in shall be filed with the state department of health, together with satisfactory evidence of compliance with section 154.3(1,2) of the Code fifteen days prior to the examination.

143.1(3) The examination for admission to practice optometry in Iowa shall consist of two parts:

a. Parts one and two of the written examination of the national board of examiners in optometry, which parts include the subjects of physiology of the eye, optical physics, anatomy of the eye, ophthalmology, and practical optometry passage of which shall satisfy the requirements of this part of the examination; and

b. Oral and practical examination as given by the Iowa board of optometry examiners with general average of not less than seventy-five percent correct answers as a requirement for passing.

143.1(4) Any applicant failing in his first examination shall be entitled to a second examination within fourteen months after the first examination without filing a new application or fee.

470—143.2(147) Licensure by reciprocity or interstate endorsement.

143.2(1) All reciprocal agreements adopted and in force between the Iowa board of optometry examiners and other state licensing boards shall be governed by these rules.

143.2(2) Applicants for licensure to practice optometry in the state of Iowa, who are licensed by examination by any other state licensing board maintaining equal practice privileges, will be considered on an individual basis.

143.2(3) A license may be granted by the Iowa board of optometry examiners without an examination, or as much examination as may be required to establish proficiency and desirability to any such applicant, who, at the date of the original license issued, fully conformed to the educational and licensure requirements of said board of optometry examiners in Iowa.

143.2(4) All applications for reciprocity shall be made on the official forms supplied by the State Department of Health, Lucas Building, Des Moines, Iowa.

143.2(5) The application forms properly filled in, accompanied by:

a. A fee of forty dollars;

b. The state licensing certificate (or duplicate copy of same) of the state from which applicant desires to reciprocate; and

c. The optometry college diploma or in lieu thereof a certified statement from the authorities of the optometry college, regarding the issuance of the diploma and the date of

same, shall be filed with the state department of health, at least fifteen days prior to date of examination or board meeting.

143.2(6) Each applicant must furnish certified evidence of three or more years' practice in the state from which he desires to reciprocate, immediately preceding the filing of his application for reciprocity.

143.2(7) The statements made in the application must be reviewed and verified by the secretary of the state examining board issuing the original certificate, who will also certify as to the schedule of subjects in which the applicant was examined, and the rating given thereon and the general average attained.

143.2(8) If the examination failed to include one or more of the subjects required by the Iowa board, the applicant may be required to take a supplementary examination before this board in the subjects omitted, and ratings awarded thereon shall be added to those of his former examination in order to determine his general average.

143.2(9) Each applicant will be required to make on the application form a sworn statement of the number and date of each examination taken by him prior to his application to this board together with the ratings obtained thereon at each, a statement as to all the places where he has practiced, the character of practice engaged in (general, special or itinerant), and the length of time so engaged in each and whether or not any certificate issued to him has ever been suspended or revoked.

These rules are intended to implement chapter 147 of the Code.

[Filed November 14, 1967]

CHAPTER 144 OPTOMETRY EXAMINERS STUDY COMPLIANCE FOR LICENSE RENEWAL

470—144.1(147) General.

144.1(1) The optometric study compliance year shall extend from June 1 through May 31 during which period attendance at approved study sessions may be used as evidence of study fulfillment requirements for the subsequent license renewal year beginning July 1 and expiring June 30.

144.1(2) The educational requirement of two days shall be twelve clock hours of attendance and study at approved study sessions.

144.1(3) The required number of study hours may be obtained by one or all of the following methods:

- a. The annual educational program or clinic of the Iowa optometric association;
- b. Postgraduate study sessions or seminars at an accredited school of optometry;
- c. Local study group programs approved by the board;
- d. Other meetings or seminars either within or without the state of Iowa that may be approved in advance by the board with such request for approval to be made to the board at least fourteen days prior to said meeting or seminar;
- e. Home study material specified and approved by the board in cases of extenuating circumstances. Such will be allowed only upon submission of satisfactory evidence to the board of such circumstance and inability to acquire the number of study hours.

144.1(4) Certification to the board of attendance at any of the foregoing study sessions shall be made within seven days of said meeting by the secretary or chairman of the organization or group sponsoring said meeting, the dean of optometry school, or in the case of special meetings approved by the board, a person so designated by the board.

470—144.2(147) Local study groups.

144.2(1) Application to establish an authorized study group must be filed with the secretary of the board of optometry examiners by April 30 for subsequent study compliance year June 1 through May 31. Late applications may, with the judgment of the board, be acceptable, but the attendance to study groups making late application will be valid only from date of approval by the board of optometry examiners.

470—153.2(158) License. Barbers shall display at their work cabinet the original license certifying the practitioner is a licensed barber; also the annual renewal. Barber shop licenses shall be in the name of the licensed operator and posted therein. An apprentice shall have a valid permit posted. One apprentice to each licensed barber; only two apprentices in any one barber shop.

470—153.3(158) Signs. Each barber school shall display a sign at its main entrance indicating a barber school; also a sign therein that barber services are given by students only.

470—153.4(158) Sanitation. Every barber shop shall be well lighted, properly ventilated, and kept in a clean, sanitary and orderly condition. All shops or schools established after July 1, 1967, shall have approved handwashing and toilet facilities accessible within the building. All shops established after July 1, 1967, shall have a minimum length of at least ten feet for a one-chair shop, fifteen feet for a two-chair shop, and five feet additional length for each additional chair and a minimum width of not less than twelve feet.

470—153.5(158) Quarters. Barbering shall not be practiced in a residence unless the shop is completely separated from living quarters by a solid permanent partition. A direct outside entrance shall be provided.

470—153.6(158) Quarters adjacent to other business. A barber shop located in a room adjacent to a restaurant, tavern or grocery shall be in a completely separate room. Doors between the barber shop and the aforesaid shall be rendered unusable.

470—153.7(158) Candy, cigars, beverages, etc. To be dispensed only from sealed packages.

470—153.8(158) Plumbing. Barber shops shall have modern plumbing and an adequate supply of both hot and cold running water connected with the local water system. In communities where a water system is not available, a pressure gravity system shall be installed of adequate capacity to provide water in sufficient force to thoroughly saturate linens. Drain pipes shall be connected directly with an approved sewerage system.

470—153.9(158) Combs and brushes. Combs and brushes must be cleansed; then immersed in an efficient disinfectant. Combs shall be left in the solution or in a sterile cabinet at all times when not in use. Use of the common hair brush is prohibited.

470—153.10(158) Instruments. Instruments of the profession shall be thoroughly cleansed and then immersed for at least one minute in an approved disinfectant before being used. When not in use, they shall be kept in a clean closed compartment provided for and used only for the storage of such equipment. Electric clipper plates shall be properly sterilized by the open-flame method.

470—153.11(158) Disinfectants. All containers must be kept clean and well filled with an effective recognized disinfectant. A separate container shall be provided for each practicing barber.

470—153.12(158) Shaving mugs. Shaving mug, soap and brush shall be thoroughly rinsed with boiling water before each patron is served. Rubber or porous mugs are prohibited.

470—153.13(158) Bowls and strops. All cups, bowls and strops shall be kept clean at all times.

470—153.14(158) Dusters and brushes. The common neck duster or brush shall not be used in any public barber shop.

470—153.15(158) Hands. Every barber shall wash his hands thoroughly with soap and water before serving a patron.

470—153.16(158) Headrest. Each barber chair headrest shall be provided with a mechanical paper container and clean shaving paper.

470—153.17(158) Towels. Freshly laundered towels shall be used for each patron. In haircutting, shampooing, or similar activities, a freshly laundered towel or new neck strip shall be used to prevent the hair cloth from directly contacting the skin of the patron. Soiled towels shall not be left on lavatory or workstand but shall be immediately disposed of in a container for that purpose. All clean linens shall be kept in an enclosed dust-proof cabinet.

470—153.18(158) Styptic powder and alum. Alum or other material used to stop the flow of blood shall be used only in liquid or powder form.

470—153.19(158) Communicable diseases. A barber shall not practice who is infected with any communicable disease.

470—153.20(158) Other disease carriers. Dogs, cats, birds and other pets shall not be kept in a barber shop or school.

470—153.21(158) Managers' duty. It shall be the duty of each manager of a barber shop to ascertain that all barbers employed in the shop have an Iowa license to practice, and that all employees observe these rules and all other sanitary rules of the local board of health and state department of health.

470—153.22(158) Disinfectant solutions. All disinfectant solutions shall be labeled. The following disinfectant solutions have been approved by the state department of health; formalin, ten percent solution; isopropyl alcohol, seventy percent solution; potassium mercuric iodide, one to one thousand solution; mercuric bichloride, one to one thousand solution; saponated cresol, two percent solution; or other solutions approved by the state department of health.

[Filed August 10, 1956; amended July 11, 1967]

CHAPTERS 154 to 159 Reserved

CHAPTER 160 LICENSE FEES

160.1 Rescinded November 24, 1976.

470—160.2(147) Board of podiatry examiners.

160.2(1) License to practice podiatry issued upon the basis of an examination is fifty dollars.

160.2(2) License to practice podiatry issued under a reciprocal agreement is one hundred dollars.

160.2(3) Renewal of a license to practice podiatry is twenty-five dollars.

160.2(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.2(5) Fee for a duplicate license is five dollars.

470—160.3(147) Board of physical therapy examiners.

160.3(1) License to practice physical therapy issued upon the basis of an examination is sixty dollars.

160.3(2) License to practice physical therapy issued under a reciprocal agreement is sixty dollars.

160.3(3) Renewal of a license to practice physical therapy is ten dollars.

160.3(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.3(5) Fee for a duplicate license is five dollars.

470—160.4(147) Board of optometry examiners.

160.4(1) License to practice optometry issued upon the basis of an examination is fifty dollars.

160.4(2) License to practice optometry issued under a reciprocal agreement is one hundred dollars.

160.4(3) Renewal of a license to practice optometry is forty dollars.

160.4(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.4(5) Fee for a duplicate license is five dollars.

470—160.5(147) Board of funeral directing and embalming examiners.

160.5(1) License to practice funeral directing issued upon the basis of an examination is ten dollars.

160.5(2) License to practice embalming issued upon the basis of an examination is ten dollars.

160.5(3) License to practice embalming issued under a reciprocal agreement is twenty dollars.

160.5(4) Renewal of a license to practice funeral directing is five dollars.

160.5(5) Renewal of a license to practice embalming is five dollars.

160.5(6) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.5(7) Fee for a duplicate license is five dollars.

160.5(8) Fee for student registration is five dollars.

160.6 and 160.7 Reserved.

470—160.8(154A) Board of examiners for licensing and regulation of hearing aid dealers.

160.8(1) License to practice as a hearing aid dealer issued upon the basis of an examination is fifty dollars.

160.8(2) License to practice as a hearing aid dealer issued under a reciprocal agreement is fifty dollars.

160.8(3) Renewal of a license to practice as a hearing aid dealer is twenty-five dollars.

160.8(4) Fee for a temporary permit is twenty-five dollars.

160.8(5) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.8(6) Fee for a duplicate license is five dollars.

These rules are intended to implement sections 135.11(15), 147.80, 154A.17, and 156.8 of the Code.

[Filed April 17, 1975]

[Filed 9/27/76, Notice 6/14/76—published 10/20/76, effective 11/24/76]

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470—170.1(17A) Definitions.

170.1(1) "*Commissioner*" means the commissioner of public health.

170.1(2) "*Department*" means the Iowa state department of health.

470—170.2(17A) State board of health. The state board of health, which consists of nine members, appointed by the governor, is the policymaking body for the state department of health and has the power and duty to adopt, promulgate, amend and repeal rules, consider legislation, and advise or make recommendations to the governor, general assembly, and commissioner relative to public health, hygiene, and sanitation. The state board of health meets on the second Wednesday in July and on the second Wednesday on each second month thereafter and at such other time as may be deemed necessary by the president of the board.

470—170.3(17A) Commissioner of public health. The commissioner is the chief administrative officer of the department, and in that capacity directs and administers the programs and services of the department. The duties of the commissioner include: Recommendations to the state board of health; the adoption of rules for the implementation of statutes; service as secretary to the state board of health; the establishment of the administrative organization; and other actions to administer and direct the department's programs. He is assisted by the assistant commissioner for administration who performs such duties as assigned by the commissioner and the assistant commissioner for medical affairs, a physician who advises the commissioner concerning medical affairs.

170.3(1) The commissioner's office has two administrative offices.

a. Office of management and budget. The office, directed by the assistant commissioner

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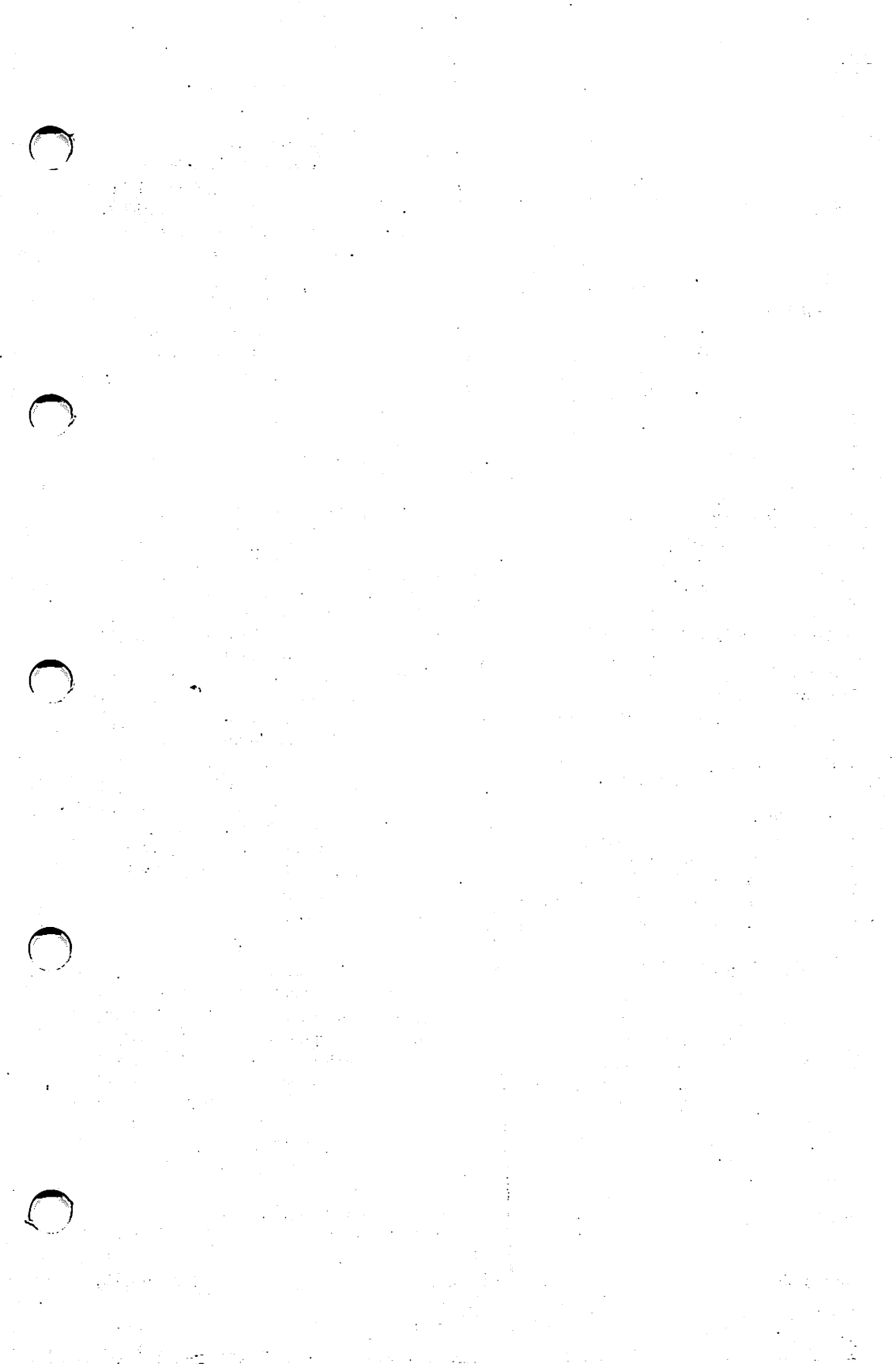
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[Ch 5, 1973 IDR, renumbered as Ch 79]

DECLARATORY RULINGS

770—5.1(17A) Request. Any person requesting a declaratory ruling shall submit such request in writing to the Division of Management and Planning, Procedures Bureau, 507 - 10th St., Des Moines, Iowa 50309.

770—5.2(17A) Form. Although the request need not follow any prescribed form, it shall clearly state:

5.2(1) The statutory provision, rule or other written statement of law or policy, decision, or order of the agency in question.

5.2(2) A full statement of the facts being presented for the department's consideration.

770—5.3(17A) Disposition. The procedures bureau shall refer such request to the appropriate departmental unit for consideration of such request and disposition thereof.

[Filed 9/19/75, Notice 8/11/75—published 8/11/75, effective 11/10/75]

CHAPTER 6

[Ch 6, 1973 IDR, renumbered as Ch 80]

Reserved

CHAPTER 7

[Ch 7, July 1973 IDR Supplement, renumbered as Ch 81]

FAIR HEARINGS AND APPEALS

770—7.1(217) Definitions.

7.1(1) Agency. "Agency" as used in these rules means both the Iowa department of social services and the local office of the department of social services.

7.1(2) Appeal. "Appeal" as used in these rules denotes a review requested by an appellant of a decision made by the agency or its designee. An appeal shall be considered a contested case within the meaning of chapter 17A, Code of Iowa.

7.1(3) Appellant. "Appellant" as used in these rules denotes the person who claims or asserts a right or demand or the party who takes an appeal from a fair hearing to an Iowa district court.

7.1(4) Claimant. "Claimant" as used in these rules denotes the person who claims or asserts a right or demand; also referred to as the appellant.

7.1(5) Department. "Department" as used in these rules means the Iowa department of social services.

7.1(6) Due process. "Due process" as used in these rules denotes the rights of a person affected by an agency decision to present a complaint at a fair hearing and to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the questions of the individual's rights in the matter involved without undue delay or hindrance.

7.1(7) Fair hearing. "Fair hearing" or "hearing" as used in these rules denotes a hearing in which authority is fairly exercised consistently where the fundamental principles of justice are embraced within the conception of due process of law.

7.1(8) Issues of fact or judgment. "Issues of fact or judgment" denotes disputed issues of facts or of the application of state or federal law or policy to the facts of the individual's personal situation.

7.1(9) Issues of policy. "Issues of policy" denotes issues of the legality, fairness, equity, or constitutionality of state or federal law or agency policy where the facts and applicability of the law or policy are undisputed.

7.1(10) Joint or group hearings. "Joint or group hearings" as used in these rules denotes an opportunity for several persons to present their case jointly when all have the same complaint against agency policy.

7.1(11) Local office. "Local office" as used in these rules means the local or district office of the department of social services.

7.1(12) Presumption. "Presumption" as used in these rules denotes an inference drawn from a particular fact or facts or from particular evidence, which stands until the truth of such inference is disposed.

7.1(13) Vendor. "Vendor" as used in these rules means a provider of health care under the medical assistance program or a provider of services under a service program.

770—7.2(217) The hearing officer. Fair hearings shall be conducted by an administrative hearing officer appointed by the department pursuant to section 17A.11 of the Code. The hearing officer shall not be connected in any way with the previous actions or decisions on which the appeal is made. Nor shall the hearing officer be subject to the authority, direction, or discretion of any person who has prosecuted or advocated in connection with that case, the specific controversy underlying that case, or pending factually related contested case or controversy, involving the same parties.

770—7.3(217) Publication and distribution of hearing procedures. Hearing procedures shall be published and widely distributed in the form of rules or a clearly stated pamphlet, and shall be made available to all applicants, recipients, claimants, appellants, and other interested groups and individuals:

770—4(217) The right to appeal.

7.4(1) When hearing is granted. A hearing shall be granted to any person aggrieved by an action of the department of social services when the right to a hearing is granted by state or federal Constitution, law, or regulation, except as limited herein. A hearing will not be granted when a state or federal law or regulation provides for a different forum for appeals. A hearing need not be granted when either state or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation. A prematurely filed appeal may be dismissed.

7.4(2) Group hearings. The department may respond to a series of individual requests for hearings by conducting a single group hearing in cases in which the sole issue involved is one of state or federal law or policy or changes in state or federal law. In all group hearings, the policies governing hearings shall be followed. Thus each individual claimant shall be permitted to present such individual's own case or be represented by an authorized representative. The hearing officer may limit the appeal hearing to discussion of the sole issue under appeal, hence, when an individual's request for a fair hearing involves issues in addition to one serving as a basis for the group hearing, that appeal shall be severed from the group and handled separately. A claimant scheduled for a group hearing may withdraw and request an individual hearing.

7.4(3) Time limit for request. Subject to the provisions of subrule 7.4(4), when a request for a fair hearing is made within thirty days after official notification of an action, a hearing shall be held. When the request for a hearing is made more than thirty days, but less than ninety days after notification, the commissioner shall determine whether a hearing shall be held. The time in which to appeal an agency action shall not exceed ninety days.

7.4(4) Automatic adjustments. In appeals when state or federal law requires automatic grant adjustments for classes of recipients, other than appeals of incorrect grant computation, the commissioner shall determine whether to grant or deny appeals.

770—7.5(217) Informing individuals of their rights.

7.5(1) Written and oral notification. It shall be the duty of all local offices to advise each applicant and recipient of the right to appeal any adverse decision affecting such individual's status.

Written notification of the right to and procedure for requesting a fair hearing before the department, of the right to be represented by others at the hearing, and of any provision for

payment of legal fees by the department shall be given at the time of application and at the time of any agency action affecting the claim for assistance.

Written notification shall be given on the application form and pamphlets prepared by the agency for applicants and recipients. Explanation shall be included in the agency pamphlet explaining the various provisions of the program. Oral explanation shall also be given explaining the policy on hearings during the application process and at the time of any contemplated action by the agency when the need for such discussion is indicated. Persons not familiar with English shall be provided a translation into the language understood by them in the form of a written pamphlet or orally. In all cases when a person is illiterate or semilliterate, such person shall, in addition to receiving the written pamphlet on rights, be advised of each right to the satisfaction of such person's understanding.

7.5(2) Representation. The person shall be advised that such person may represent self, or may be represented at fair hearings by others, including legal counsel, relatives, friends, or any other spokesman of choice. The agency shall advise the person of any legal services which may be available and assist in securing such services if the person desires.

770—7.6(217) Notice of intent to terminate, reduce, or suspend assistance.

7.6(1) Whenever the county proposes to terminate, reduce, or suspend assistance to a recipient of aid to dependent children, state supplementary assistance, or medical assistance, it shall give timely and adequate notice of the pending action.

a. Timely means that the notice is mailed at least ten calendar days before the date the action would become effective.

b. Adequate means a written notice that includes a statement of what action is being taken, the reasons for the intended action, the specific manual reference supporting such action, an explanation of the recipients' right to request a fair hearing, and the circumstances under which assistance is continued when a hearing is requested.

7.6(2) Timely notice may be dispensed with, but adequate notice shall be sent no later than the date of action when:

a. There is factual information confirming the death of a recipient or of the aid to dependent children payee when there is no relative available to serve as a new payee.

b. The recipient provides a clear written, signed statement that such recipient no longer wishes assistance, or that gives information which requires termination or reduction of assistance, and the recipient has indicated, in writing, that such recipient understands that this must be the consequence of supplying such information.

c. The recipient has been admitted or committed to an institution which does not qualify for payment under an assistance program.

d. The recipient has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

e. The recipient's whereabouts are unknown and mail directed to the recipient has been returned by the post office indicating no known forwarding address. When the recipient's whereabouts become known during the payment period covered by the returned warrant, the warrant shall be made available to the recipient.

f. The county establishes that the recipient has been accepted for assistance in a new jurisdiction.

g. A child in an aid to dependent children case is removed from the home as a result of a judicial determination, or voluntarily placed in foster care.

h. A change in the level of medical care is prescribed by the recipient's physician.

i. A special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall terminate at the end of the specified period.

7.6(3) When the agency obtains facts indicating that assistance should be discontinued, suspended, terminated, or reduced because of the probable fraud of the recipient, and, where possible, such facts have been verified through collateral sources, notice of such grant adjustment shall be timely when mailed at least five calendar days before the action would become effective.

7.6(4) During the timely notice period, the recipient may have a conference to discuss the situation and the agency shall provide a full explanation of the reasons for the pending action and give the recipient an opportunity to offer facts to support the contention that the pending action is not warranted. The recipient may be accompanied by a representative, legal counsel, friend, or other spokesman and such individual may represent the recipient when the recipient is not able to be present.

770—7.7(217) Opportunity for fair hearing.

7.7(1) *Prompt response.* All aggrieved persons as defined in subrule 7.4(1) are entitled to request and receive a fair hearing before the department. Persons are also entitled to a prompt response when it becomes known to the agency either by written or oral means, of their desire for the opportunity to have their case brought before the department for a fair hearing.

The person shall be first given the opportunity to review the problem with the agency staff, if so desired, at an informal discussion. This procedure shall not be used to delay, avoid or preclude a fair hearing, but is designed to assist the person in the preparation for the fair hearing.

7.7(2) *Interference.* The right of appeal shall not be limited or interfered with in anyway, even though the individual's complaint may be without basis in fact, or due to such individual's own misinterpretation of law, agency policy, or methods of implementing policy, subject to the right of the department to refuse to hear appeals involving only changes required by federal law or policy to all such cases. Facts of harassing, threats of prosecution, denial of pertinent information needed by the claimant in preparing the appeal, as a result of the claimant's communicated desire to proceed with the appeal, shall be taken into consideration by the hearing officer in reaching a final decision. Such evidence will raise a presumption of denial of due process, and will be referred to the proper official of the agency for appropriate administrative action.

7.7(3) *Filing the appeal.* When an individual, or the individual's authorized representative, expresses orally or in writing to the local office or the department, dissatisfaction with any decision, action or failure to act with reference to the case, the agency shall determine from the nature of the complaint whether the individual wishes to appeal and receive a hearing before a hearing officer. The agency shall encourage the claimant to complete such complaint in writing on the form provided, and shall provide any instructions or assistance required in completing the form. Provided that when the claimant for any reason is unwilling to complete or sign forms or letters, nothing in this rule shall be construed to preclude the right to perfect the appeal. So long as the desire for a fair hearing has been communicated to the department by the claimant or representative, it shall be considered as an appeal.

770—7.8(217) Request and continuation of assistance. When the recipient requests a hearing within the timely notice period, assistance shall not be suspended, reduced, discontinued, or terminated, but is subject to recovery by the agency if its action is sustained, until a decision is rendered after a hearing, unless:

7.8(1) *Issue.* A determination is made at the hearing that the sole issue is one of state or federal law or policy or change in state or federal law and not one of incorrect grant computation, or

7.8(2) *Change.* A change affecting the recipient's grant occurs while the hearing decision is pending and the recipient fails to request a hearing after notice of the change.

770—7.9(217) Procedural considerations. Upon receipt of the notice of appeal, the hearing officer shall:

7.9(1) *Registration.* Register the appeal.

7.9(2) *Acknowledgment.* Send an acknowledgment of receipt of the appeal to the appellant, representative, or both, advising that the hearing will be scheduled within a

reasonable time and that notification will be forthcoming as to the date, time, place, and other pertinent information with due regard for the convenience of the appellant.

a. When the appellant is residing outside the state, advice will also be given that the appellant may return to Iowa and arrangements will be made for the hearing in the local office returned to or a representative may be designated to represent the appellant in the Iowa county responsible for the case and in which the appellant resided before leaving the state.

b. A copy of the acknowledgment of receipt of appeal will also be sent to the local office, including copies of any correspondence with an appellant who is outside the state, regarding arrangements for the hearing.

7.9(3) Hearing scheduled. Establish the date, time, and place of the hearing, with due regard for the convenience of the appellant.

a. In cases involving individual recipients of assistance or services, the hearing shall be held in the appropriate local office, provided that when the recipient is incapacitated due to illness or other disability and is housebound, hospitalized, or in a nursing home, the place of the hearing shall be at the convenience of the appellant even to the extent of holding the hearing in the appellant's home.

b. In cases of appeals by vendors, the hearing shall be scheduled at the most appropriate agency office, giving due consideration to the convenience of the vendor and availability of agency employees.

7.9(4) Notification. Send a letter to the appellant, as prescribed in section 17A.12(2), setting forth the date, time, and place of the hearing, of the manner in which the hearing will be conducted, that any evidence may be presented orally or documented in any way desired, and that the appellant may bring witnesses of the appellant's choice and be represented by others, including an attorney.

a. A copy of this letter will be forwarded to the chairman of the county board of social welfare, the local administrator, the district office, and any other individual when circumstances peculiar to the case indicate that the notification may be desirable.

b. Such letter may be served upon the appellant by personal service as in civil actions, or by certified mail, return receipt requested, or by first-class mail, postage prepaid, addressed to the appellant at the last known address.

770—7.10(217) Information and referral for legal services. The local office shall advise persons appealing any agency decision of legal services in the community that are willing to assist them.

770—7.11(217) Subpoenas. The department shall have all subpoena power conferred upon it by statute. Departmental subpoenas shall be issued to a party on request.

770—7.12(217) Rights of appellants during hearings.

7.12(1) Examination of evidence. A local office shall provide the appellant, or representative, opportunity prior to as well as during the hearing, to examine all materials permitted under rule 9.1(217) or to be offered as evidence. Off the record, or confidential information which the appellant or representative does not have the opportunity to examine shall not be included in the record of the proceedings or considered in reaching a decision.

7.12(2) Conduct of hearing. The hearing shall be conducted by a hearing officer designated by the commissioner of social services. It shall be an informal rather than a formal judicial procedure, and shall be designed to serve the best interest of the appellant. The appellant shall have the right to introduce, on such appellant's own behalf, any evidence on points at issue believed necessary, and to challenge and cross examine any statement made by others, and to present evidence in rebuttal. A verbatim record shall be kept of the evidence presented.

7.12(3) Opportunity for response. Opportunity shall be afforded all parties to respond and present evidence and arguments on all issues involved and to be represented by counsel at their own expense.

7.12(4) Failure to appear. When a party fails to appear at a hearing after proper service of notice, the hearing officer may reschedule the hearing, or proceed with the hearing in the absence of that party and make a decision, or consider the appeal abandoned and dismiss it.

770—7.13(217) Limitation of persons attending. The hearing shall be limited in attendance to the following persons other than the appellant, appellant's representative, and such witnesses as the appellant may wish to present.

7.13(1) Worker. The local office worker responsible for the case.

7.13(2) Supervisor. The supervisor of such worker.

7.13(3) Administrator. The local office administrator.

7.13(4) Board of welfare. A member of the county board of social welfare.

7.13(5) County attorney. The county attorney or assistant county attorney.

7.13(6) Board of supervisors. A member of the county board of supervisors.

7.13(7) Others. Such other persons as may be specifically authorized to attend for the purpose of offering testimony pertinent to the issues in controversy.

Nothing in this rule shall be construed to allow members of the press, news media, or any other citizens' group to attend the hearing without the written consent of the appellant.

770—7.14(217) Medical examination. When the hearing involves medical issues, a medical assessment or examination by a person or physician other than the one involved in the decision under question shall be obtained and the report made a part of the hearing record when the hearing officer or claimant considers it necessary. Any medical examination required shall be performed by a physician satisfactory to the claimant and the department at agency expense.

770—7.15(217) The appeal decision.

7.15(1) Record. The record in a contested case shall include, in addition to those materials specified in section 17A.12(6) of the Code:

a. The notice of appeal.

b. All evidence received or considered and all other submissions, including the verbatim record of the hearing.

7.15(2) Findings of fact. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

7.15(3) Proposed decision. Following the reception of evidence, the hearing officer shall issue a proposed decision, based on the findings of fact.

7.15(4) Appeal of proposed decision. After issuing a proposed decision, the hearing officer shall submit it to the parties and to the members of the policy review committee, any of whom may appeal the decision to the commissioner within ten days of the date of the proposed decision. If the proposed decision is not appealed as herein provided, it shall become a final decision. An appeal from or review of the proposed decision shall be on the basis of the record as defined in subrule 7.15(1), and shall be limited to issues raised prior to that time. The issues shall be limited to those specified by the party requesting such appeal or review. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the agency, an opportunity shall be afforded to each party to file exceptions, present briefs, and, with the consent of the commissioner, present oral arguments. A party wishing oral argument shall specifically request it. When granted, all parties shall be notified in advance of the time and place. When the proposed decision is appealed to the commissioner, the proposed decision shall be stayed until the commissioner has ruled.

7.15(5) Limit of findings. The findings of fact and conclusions of law in the proposed or final decision may be limited to contested issues of fact or policy.

7.15(6) Time limit. Prompt, definitive and final administrative action to carry out the decision rendered shall be taken within ninety days from the date of the appeal except for

appeals concerning the food stamp program which shall have a maximum of sixty days for final administrative action. Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time, not to exceed thirty days except with the approval of the hearing officer, will be granted and such extra time may be added to the maximum time for final administrative action. Immediately upon receipt of a copy of the final decision, the local office shall take the action required by the decision and shall submit a report of that action to the appeals and hearing office in the department.

When the hearing decision is favorable to the claimant, or when the agency decides in favor of the claimant prior to the hearing, corrective payments, retroactive to the date of the incorrect action shall be made.

770—7.16(217) Exhausting administrative remedies. To have exhausted all adequate administrative remedies, a party need not request a rehearing under section 17A.16(2) where such party accepts the findings of fact as prepared by the hearing officer, but wishes to challenge the conclusions of law, or departmental policy.

770—7.17(217) Ex parte communications and separation of functions.

7.17(1) Communication of the hearing officer. The hearing officer may communicate with any person or party concerning any appeal issue provided that the substance of such communication and any information received in reply are presented to all parties, allowing them an adequate opportunity to respond.

7.17(2) Communication with hearing officer. Parties or their representatives may communicate with the hearing officer concerning any appeal issue provided that the substance of such communication and any information received in reply are presented to all parties, allowing them an adequate opportunity to respond. The recipient of a prohibited communication shall submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceeding, and shall send copies to all parties and allow an opportunity to respond. Where prohibited communications are directed to the hearing officer, the hearing officer may take such of the following sanctions as are deemed necessary.

- a. Provide for a decision against the party who violates the rules.
- b. Censor, suspend or revoke a privilege to practice before the department.
- c. Recommend that any agency personnel who violate this rule should be censored, suspended, or dismissed.

770—7.18(217) Accessibility of hearing decisions. Summary reports of all hearing decisions shall be made available to local offices and the public. Such information shall be presented in a manner consistent with requirements for safeguarding personal information concerning applicants and recipients.

770—7.19(217) Right of judicial review. The hearing decision shall advise the claimant of the right to judicial review by the district court. When the claimant is dissatisfied with the hearing decision, and appeals such decision to the district court, the department shall furnish copies of such documents or supporting papers as the appellant and legal representative may need in order to perfect the appeal to district court.

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CHAPTER 8* PAYMENT OF SMALL CLAIMS

770—8.1(217) Authorization to reimburse. The department is authorized to expend monies as reimbursement for replacement or repair or personal items of the department's

*Emergency, pursuant to section 17A.5(2)(b)(2) of the Code.

employees damaged or destroyed by clients of the department during the employee's tour of duty. The following requirements shall apply for filing small claims with the employee's agency:

8.1(1) Claimant shall provide the supervisor with a detailed written account of incident, and when possible include a name of a witness.

8.1(2) Written reports shall be supplemented with vendors estimate of repair or replacement cost when practical. Replacement items shall be of similar quality or cost.

8.1(3) The supervisor shall review all reports and approve or deny the claim based on available information.

8.1(4) Claims which are approved for payment shall be paid from the support allocation of the department and shall not exceed seventy-five dollars per item.

8.1(5) Vouchers submitted for payment of claims shall be supported with a vendor's invoice of claimant's receipt for expense.

[Emergency, filed and effective 9/19/75—published 10/6/75]

CHAPTER 9*

RECORDS OF THE DEPARTMENT

770—9.1(217) Disclosure to applicant or recipient.

9.1(1) When an applicant or recipient has filed an administrative appeal under section 239.7 aid to dependent children, section 249.5 supplemental assistance or section 249A.4 medical assistance; from the decision of the department of social services in accordance with the Iowa administrative procedures Act, chapter 17A, the department shall make available to the applicant or recipient and provide opportunity for the applicant or recipient to examine the contents of such person's case record and all documents and records to be used by the department at the hearing at reasonable time before the date of the hearing as well as during the hearing.

9.1(2) The applicant or recipient shall have access to the contents of such person's entire case record when an administrative appeal is filed with the following exceptions:

a. All medical and psychiatric information contained in the applicant's or recipient's case record shall be released only to a doctor or psychiatrist designated in writing to be the representative of said applicant or recipient and the attorney of record for said applicant.

b. The names of third parties unless said third parties have expressly agreed in writing to waive whatever rights to confidentiality that such persons may possess. The information provided by said third parties is available for inspection by the applicant or recipient unless the release of said information will make the third party readily identifiable to the applicant or recipient.

(1) When the applicant or recipient believes that the disclosure of the name of the third party or the information provided by said third party is necessary to the presentation of the appeal, the same shall be submitted to the hearings officer for such hearings officer's in camera inspection and determination as regards the necessity of releasing said information. The decision of the hearings officer shall be final.

(2) When the determination of the hearings officer is that the name of a third party or the information provided by said third party cannot be released without violating said third party's right to privacy none of the information provided by said third party can be used as a basis for a decision of the administrative appeal and must be completely disregarded.

[Filed emergency 11/25/75—published 12/15/75, effective 11/25/75]

CHAPTERS 10 to 15

[Chs 13 to 15, 1973 IDR, rescinded June 11, 1975]

Reserved

TITLE II

CORRECTIONS

CHAPTER 16

[Ch 16, 1973 IDR, rescinded 6/11/75]

Reserved

*Emergency, pursuant to section 17A.5(2)"b"(2) of the Code.

CHAPTER 17
IOWA STATE PENITENTIARY

770—17.1(218) Definitions.

17.1(1) *Contraband.* Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, money, obscene materials as defined in section 725.1, paragraph (1), of the Iowa Code, or materials advocating disruption of or injury to inmates, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, or materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

17.1(2) *Immediate family.* Whenever "immediate family" is used in these rules, it shall mean spouse, child, parent, brother, sister, natural grandparents and legal guardian.

770—17.2(218) Visiting.

17.2(1) Visiting hours are 8:00 a.m. to 4:00 p.m. Monday and Wednesday through Friday and 8:00 a.m. to 8:00 p.m. Saturday and Sunday.

a. Weekday visits shall terminate after a maximum of four hours or at the conclusion of visiting hours, whichever comes first.

b. Weekend or holiday visits shall terminate after a maximum of three hours or at the conclusion of visiting hours, whichever comes first. Visits may be extended at the warden's or designee's discretion when visitors are from great distances or when able to make only rare visits.

17.2(2) Persons wishing to visit inmates must be on an approved visiting list prior to the visit.

a. Applications for visiting privileges may be obtained by contacting the inmate's correctional counselor and shall be completed and returned to the institution.

b. Applicant shall be notified within thirty days as to approval or disapproval and reason given when disapproved.

c. Persons not on the approved list may be granted a special visiting pass at the discretion of the warden or designee.

d. Ex-felons must have prior approval from the warden to visit.

e. Visitors fifteen years of age or younger shall be accompanied by an approved adult. Such adult shall be responsible for the behavior of the child.

d. Obscene and licentious materials.

17.4(8) The institution will not be responsible for lost or damaged goods sent into the institution.

770—17.5(218) Interviews and statements.

17.5(1) When inmates are selected to be interviewed and photographed within the institution, either singly or part of a group, identifiable interviews or pictures shall require the written consent of the inmate involved as well as prior consent of the warden or designee.

17.5(2) The warden has the responsibility for all communications with mass media.

770—17.6(218) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the warden. The warden shall evaluate the donation in terms of the nature of the contribution to the institution program. The warden shall be responsible for accepting the donation and reporting the gift to the director, division of correctional institutions, in the Iowa department of social services.

770—17.7(218) Tours. Tours of small groups of persons are approved as deemed appropriate by the warden or designee.

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[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

**CHAPTER 18
IOWA STATE MEN'S REFORMATORY**

770—18.1(218) Definitions.

18.1(1) *Department head.* Whenever "department head" is used in these rules, it shall mean one of the following staff persons—warden, assistant to the warden, director of treatment services, director of correctional services, personnel director, industrial manager, business manager, medical officer, or the training officer.

18.1(2) *Contraband.* Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, money, obscene materials as defined in section 725.1, paragraph (1) of the Iowa Code or materials advocating disruption of or injury to inmates, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, or materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

18.1(3) *Immediate family.* Whenever "immediate family" is used in these rules, it shall mean spouse, child, parent, brother, sister, natural grandparents, and legal guardian.

770—18.2(218) Visiting.

18.2(1) All persons wishing to visit an inmate must be placed on an approved visiting list prior to the visit. An application to visit must be completed and returned to the institution.

a. Applicants shall be notified within thirty days as to approval or disapproval and reason given when disapproved.

b. All visitors must have proper identification. Signature cards may be required from visitors.

c. Visitors must be appropriately attired and not wear suggestive clothing styles.

d. Visitors shall not be admitted when the apparent odor or effect of alcohol or a narcotic drug is detected.

e. Periodic personal searches shall be made by institutional staff to prevent the entry of contraband. Criminal charges shall be filed against individuals who attempt the introduction of contraband. Refusal to comply with such search will be the basis for denial of visiting privileges.

f. Visitors shall not give any article to inmates during a visit. Money may be left at the cashier's office during business hours.

g. Ex-felons shall have prior approval from the warden to visit.

h. Residents who are assigned to special units such as isolation or administrative segregation may have visits modified as to length of time and location, depending on the conduct which caused the assignment to the special unit.

18.2(2) Visitors fifteen years of age and younger shall be accompanied by an approved adult. Visitors sixteen and seventeen may visit alone when the parent or guardian writes for advance permission for the child to visit and provides a statement of approval.

18.2(3) Visiting hours are Monday and Wednesday through Friday from 1:00 p.m. to 8:30 p.m. and Saturdays, Sundays, and state designated holidays from 8:00 a.m. to 7:30 p.m.

a. Each visit may last three hours, except for weekend visits for inmates classified as level II, III, or III-I which may last a maximum of two hours.

b. No visits are permitted during the inmate's first fourteen days of incarceration unless at the discretion of the warden or designee.

c. Inmates classified as level II, III, or III-I may have three visits per month from each approved visitor.

(1) Two of the three visits shall be during the weekdays of Monday and Wednesday through Friday. One of these visits shall be after 4:00 p.m.

(2) Two one-day weekend or holiday visits per month is allowed for each approved visitor.

d. Inmates classified as level IV, V, or VI may have unrestricted visitations from approved visitors during hours they are not working for a maximum of three consecutive hours. Three one-day weekend or holiday visits per approved visitor are permitted each month for a maximum of three hours per visit.

e. A resident may have a maximum of four visitors on weekends and holidays and six during weekdays.

f. A maximum of two inmates can visit at any one time. In such case both inmates must be a member of the visitor's immediate family. Any exception requires prior approval of the inmates' counselor.

g. An individual on the approved visiting list of one inmate shall not concurrently be on the approved visiting list of another inmate unless so approved by the warden or designee. Exception shall be made when immediate family members are confined. Persons approved for participation in group volunteer program activities are not allowed to be on an individual inmate's visiting list, except with the permission of the warden or designee.

18.2(4) Visiting procedures may be temporarily modified in the following circumstances: Riot, disturbance, fire, labor dispute, space restrictions, natural disaster or other extreme emergency.

18.2(5) Failure of any visitor to abide by these rules will result in the loss of visiting privileges for such visitor. Visiting privileges can be reinstated only at the discretion of the warden.

18.2(6)* The institution will not be liable for injury to guests or visitors nor responsible for loss of personal property.

18.2(7) Visits shall be permitted at the Luster Heights camp on Saturday, Sunday, and holidays and may be permitted Tuesday through Friday under the supervision of the camp superintendent or supervisor in charge of the camp. Visiting hours are from 9:00 a.m. until 9:30 p.m. on Saturday, Sunday and holidays. Visiting hours are from 5:00 p.m. to 9:30 p.m. Tuesday through Friday.

a. Upon arrival at the camp, the visitor shall sign in at the camp office.

b. Visiting area is located near the camp office in good weather; in bad weather, visiting is permitted in the recreation hall.

c. A visitor may bring a picnic lunch. No beverages except a baby's formula shall be brought into the camp. The resident may eat with the visitor.

d. Residents assigned to the camp shall be permitted to have money in their possession and the officer in charge may accept money for the resident. The visitor shall not be permitted to give money directly to the resident.

*Objection, see filed rules published IAC Supp 11/3/75, 12/1/75

21.7(2) Prior approval from the superintendent is required for relatives or close friends of inmates to tour the institution.

770—21.8(218) Trips of inmates. An outside group wishing an institution's organization to make a trip shall send a written request to the institution. Trips are limited to a one hundred mile radius. Permission may be granted for longer trips at the discretion of the superintendent.

770—21.9(218) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the superintendent. The superintendent shall evaluate the donation in terms of the nature of the contribution to the institution program. The superintendent shall be responsible for accepting the donation and reporting the gift to the director, division of community services, in the Iowa department of social services.

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[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]

CHAPTER 22 Reserved

CHAPTER 23 IOWA STATE INDUSTRIES

770—23.1(218) Sale of products.

23.1(1) Iowa state industries shall sell products to any tax supported institution or governmental subdivision in any level of government which includes state, county, city or school. Iowa state industries may sell products to employees of such entities.

23.1(2) Iowa state industries may sell products to nonprofit organizations such as parochial schools, churches, or fraternal organizations and employees of such nonprofit organizations.

23.1(3) Iowa state industries may sell products to nonprofit health care facilities serving medicaid or social security patients.

23.1(4) Sales shall not be solicited from the general public.

770—23.2(218) Catalogues. Catalogues are available at the Sales Office, Division of Correctional Institutions, Department of Social Services, Lucas State Office Building, Des Moines, Iowa or the Industries Office located at the Iowa State Men's Reformatory, Anamosa, Iowa and the Iowa State Penitentiary, Fort Madison, Iowa.

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

CHAPTER 24 Reserved

CHAPTER 25 COMMUNITY-BASED CORRECTIONS

770—25.1(217) Definitions.

25.1(1) Pretrial release, supervision, and services shall mean the same as defined in section 763.17 of the Code.

25.1(2) Presentence investigations shall mean the same as defined in sections 789A.3 and 789A.4 of the Code.

25.1(3) Probation shall mean the same as defined in section 789A.1 of the Code.

25.1(4) Parole shall mean the same as parole from jail defined in section 789A.7 of the Code and parole from state institutions defined in section 247.5 of the Code.

25.1(5) A residential treatment center means any center administered as a part of a community-based correctional system in which accused or convicted offenders are domiciled, provided that such a center demonstrates that it includes a program which utilizes community resources as defined in sections 217.24 to 217.29, and provided that such centers are utilized both for offenders being committed in lieu of jail or prison commitment and are also utilized for offenders emerging from state institutional programs.

770—25.2(217) Advisory panel.

25.2(1) An advisory panel shall be established which shall be responsible to the commissioner of the Iowa department of social services, and which shall consist of five individuals as follows:

One person appointed by the director of the division of corrections; one person appointed by the executive director of the Iowa crime commission; one person representing the agency responsible for the program evaluation; and two persons appointed at the discretion of the commissioner of the Iowa department of social services.

25.2(2) Functions of the state advisory panel in advising the commissioner of the Iowa department of social services may include but not necessarily be limited to advising on guidelines and rule compliance, program approval and review, program evaluations, ongoing review and development of guidelines and rules, and long range community-based correctional planning.

770—25.3(217) **Application.** Application for state funds for a community-based correctional program shall be made to the department in the form specified by the department. Any proposed program shall encompass a judicial district or shall be part of an overall plan which encompasses a judicial district.

770—25.4(217) **Termination.** When a community-based correctional program is terminated, a thirty-day notice of termination shall be given to the department. When the department terminates funds to a community-based correctional program, it shall issue a thirty-day notice of termination to the chief administrator of the program.

770—25.5(217) Evaluation.

25.5(1) A continuous, comprehensive program effectiveness evaluation shall be conducted for all community-based correctional programs. The criteria by which programs shall be evaluated shall include but not necessarily be limited to:

a. Community safety, which refers to the extent to which the community is protected from additional crime during the corrections process,

b. Social effectiveness, which refers to improved ability of corrections clients to function legally and effectively within society,

c. Correctional effectiveness, which refers to the reduction of future criminal behavior,

d. Financial effectiveness, which refers to analysis of program effectiveness as it relates to program costs,

e. System impact, which refers to program effects on such measures as jail and prison populations, arrest rates, and community resource utilization.

25.5(2) All programs shall be responsible for the collection and provision of such evaluative and administrative data as may be required by the department of social services.

[Filed December 17, 1973]

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CHAPTER 26 PAROLE AND PROBATION

770—26.1(247) Definitions.

26.1(1) *Parole*. "Parole" shall mean the same as parole from jail defined in section 789A.7 of the Code and parole from state institutions defined in section 247.5.

26.1(2) *Probation*. "Probation" shall mean the same as defined in section 789A.1.

26.1(3) *Deferred judgment*. "Deferred judgment" shall mean the same as defined in section 789A.1.

26.1(4) *Parole or probation agreement*. "Parole or probation agreement" shall mean the contract of supervision entered into by the parolee or probationer setting out the conditions under which release is granted.

770—26.2(247) *Parole supervision*. Parole shall be supervised by the bureau of community correctional services, division of adult correction, Iowa department of social services.

770—26.3(247) *Probation supervision*. Cases placed under the supervision of the department of social services by the district courts of Iowa by order for deferred judgment or probation by suspension of imposition of sentence are subject to the same rules and conditions as are parolees.

770—26.4(247) Parole or probation agreement.

26.4(1) *Conditions of parole and probation*. The following printed conditions of parole or probation are standard conditions applicable to all parolees and probationers.

a. Parolee/probationer shall obey all laws, whether they be federal or state laws, or city ordinances, and parolee/probationer shall contact his supervising parole and probation officer upon any arrest.

b. Parolee/probationer shall secure and maintain employment as approved by the supervising parole and probation officer and shall notify such officer when unemployed or when parolee/probationer desires to change employment.

c. Parolee/probationer shall be restricted to his county of residence within the state of Iowa unless exceptions are made by the supervising parole and probation officer. Any change of address shall be reported immediately to the supervising officer.

d. Parolee/probationer shall maintain contact with his supervising parole and probation officer periodically as specified by such officer and shall submit a written report as required.

e. Parolee/probationer shall present proof of current adequate liability insurance or proof of financial responsibility before owning or operating a motor vehicle.

f. Parolee/probationer shall not possess, or use firearms or other dangerous weapons, except shotguns may be used for hunting with prior written permission of the supervising parole and probation officer, where not prohibited by federal statute.

26.4(2) *Special conditions of parole and probation*. Special conditions may be imposed at any time. Such special conditions shall only be imposed in accordance with the order of the board of parole or order of the district court or in accordance with the needs of the case as determined by the supervising parole and probation officer. Special conditions may be changed in the following manner.

a. *Deletions*. Notations shall be made on the parolee's or probationer's copy and parole and probation officer's copy of the parole or probation agreement and shall be located immediately following the special condition being deleted. Both parolee or probationer and

parole and probation officer shall sign the notation of deletion, inserting the date when such condition was deleted. Notification of such deletion shall be given to the district parole and probation supervisor and the board of parole by the immediate submission of a memorandum.

b. Additions. Additional special conditions may be imposed. The additional special conditions shall be noted on both the parolee's or probationer's and the parole and probation officer's copy of the parole or probation agreement with the date of such imposition of additional conditions. Both the parolee or probationer and parole and probation officer will sign and date the parole or probation agreement following the special condition. Notification of the imposition of additional special conditions of parole or probation shall be given to the district parole and probation supervisor and to the board of parole by memorandum.

26.4(3) Effective date of parole or probation. Parole or probation shall be deemed to be effective only upon the acceptance of such parole or probation as evidenced by the signing of the parole or probation agreement by the parolee and probationer. This signing will be before a witness who is an employee of the department of social services. The parole or probation agreement shall be issued only upon the written order of the board of parole and shall not be issued prior to the establishment of an approved parole plan. Probation agreements shall be issued only upon receipt of a written order from the district court of Iowa.

26.4(4) Warden's certification. The warden or superintendent of the institution from which parole release occurs, or his designee, shall complete the warden's certification on the parole agreement and shall cause such parole agreement to be made a permanent record of the file of the parolee.

26.4(5) Reporting instructions. Each parole agreement shall contain reporting instructions to the parolee.

770—26.5(247) Location of supervision. The place of domicile of the person under supervision shall be the determining factor in deciding in which district supervision shall be carried out. It shall be the responsibility of the parole and probation officer in whose district the domicile is located to maintain supervisory responsibility. A parole and probation officer may permit a change of domicile to another district when there is evidence there exists in the other district positive factors of supervision in a given case. An investigation must be completed and the plan approved by the receiving officer before transfer is made to the supervision of an officer in another district.

770—26.6(247) Permissions. Pursuant to the condition of parole or probation as set forth in the parole or probation agreement the following procedures for the granting of permission shall be in effect:

26.6(1) In-state travel. The parole and probation officer may give verbal permission to a parolee or probationer under such officer's supervision for travel within the state of Iowa for a period not exceeding three days. Travel permission within the state of Iowa in excess of three days shall be given in writing on an approved form.

26.6(2) Out-of-state travel. Permission may be granted for travel to other states for no more than thirty days in accordance with the provisions of the interstate compact for the supervision of parolees and probationers. Such permission shall be given in writing and approved by the district parole and probation supervisor upon an approved form.

26.6(3) Checking accounts. When required under the conditions of parole or probation the supervising parole and probation officer shall have authority to grant permission to a parolee or probationer to have and maintain a checking account.

26.6(4) Changing employment. The authority for permission for a parolee or probationer to change employment is granted to the parole and probation officer.

26.6(5) Operation of a motor vehicle. Authority to permit a parolee or probationer to operate a motor vehicle is vested in the parole and probation officer provided that proof of financial responsibility has been presented in accordance with 26.4(1)"e".

770—26.7(247) Voluntary returnees to the institution. It is the policy of the department of social services, with the approval of the district parole and probation supervisor and the warden or superintendent of the appropriate institution, that a parolee may be returned to the institution from which paroled for a period not to exceed ninety days for treatment or further training, provided the parolee executes a voluntary return agreement prior to such return.

770—26.8(247) Violations.

26.8(1) Reporting violations. The parole and probation officer may at any time report violations of the conditions of parole to the board of parole and report violations of the conditions of probation to the district court. Within fourteen calendar days of receipt of knowledge of the commission of certain violations the parole and probation officer shall report in writing to the board of parole, in parolees cases, or to the district court, in probationer cases, the commission of those violations and shall make a recommendation regarding revocation of parole or probation.

26.8(2) Offenses. The following categories of offenses must be reported in writing in accordance with 26.8(1).

- a. Conviction of a public offense as defined in chapter 687 of the Code.
- b. Willful and continued failure to maintain employment.
- c. Violation of any condition of parole as set by the board of parole or any condition of probation as set by the district court.
- d. Wrongful or excessive use of alcohol or drugs.
- e. Absconding from parole or probation.
- f. Physically assaultive or violent behavior.

770—26.9(247) Arrests and detention. Parole and probation officers have the authority to arrest and detain a parolee or probationer under the supervision of the chief parole officer for the purpose of investigation of alleged violations. This authority shall be used with discretion for the purpose of detaining a parolee or probationer for investigative purposes only. When a parolee or probationer is placed in custody or detained either by or upon the order of a parole and probation officer, whether by oral or written order, the investigation shall proceed at once. Within a maximum of five working days, a determination shall be made as to whether or not a report of violation shall be submitted to the board of parole or to the district court for consideration of revocation of parole or probation.

770—26.10(247) Temporary emergency housing for probationers. Housing on a temporary emergency basis shall be available to probationers when space is available at the state operated residential treatment facilities.

770—26.11(247) Discharge from parole and probation.

26.11(1) A parolee or probationer shall be considered for discharge upon the recommendation of the supervising officer following a satisfactory adjustment under supervision.

26.11(2) The recommendation for discharge from parole or probation as submitted by the supervising officer shall include, but not be limited to, the following:

- a. Parolee's or probationer's attitude and adjustment to parole or probation supervision.
- b. Public offenses committed by the parolee or probationer while under supervision.
- c. Violation of any parole or probation conditions set by the board of parole or the district court.
- d. Abuse of alcohol or drugs while on parole or probation.
- e. Restitution accomplished by the probationer when ordered by the district court.
- f. The reasons why the discharge is appropriate.

26.11(3) The optimum point for consideration for discharge is evaluated in terms of:

- a. The risk to society posed by the parolee or probationer.
- b. The further assistance that might be efficiently rendered to the parolee or probationer by the parole and probation officer.

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CHAPTER 27

INTERSTATE COMPACT FOR THE SUPERVISION OF PAROLEES AND PROBATIONERS

770—27.1(247) Compact agreement. The interstate compact for the supervision of parolees and probationers is a legally binding agreement under which all fifty states, Puerto Rico, and the Virgin Islands serve as each other's agents in the supervision of certain parolees and probationers. The compact provides a simple legal method whereby parolees and probationers may move to better rehabilitative environments outside the state without losing the advantages of supervision or escaping from the jurisdiction of the state in which such person was sentenced.

770—27.2(247) Compact administrator.

27.2(1) The compact administrator may appoint up to two deputy compact administrators to serve as active members of the Parole and Probation Compact Administrator's Association and who shall be responsible for day-to-day operation of the interstate compact.

27.2(2) The compact administrator shall be responsible for the administration of the compact between this state and other contracting states. The compact administrator or the designated deputy shall serve as Iowa's representative in the parole and probation compact administrator's association.

770—27.3(247) Sending a person out of Iowa under the compact.

27.3(1) Local parole and probation officials requesting to transfer a parolee or probationer to another state shall work through the office of the state compact administrator. All persons using the compact shall comply with the official rules and regulations promulgated by the compact administrators under authority of article 5 of the compact.

27.3(2) Whenever a person is accepted in another state for supervision, Iowa shall, when available, send to the receiving state two recent photographs and one photostatic copy of the fingerprints or fingerprint classification of subject.

27.3(3) All monies which the sending state desires to collect from the parolee or probationer either for restitution or otherwise, shall be sent directly by the parolee or probationer to the sending state and the receiving state agrees to use its best endeavor to insure that the parolee or probationer sends to the sending state such monies.

27.3(4) The parolee or probationer shall sign Compact Form III, Agreement to Return; and Form V, Application for Compact Services; in triplicate, furnished by the parole or probation officer, before leaving the sentencing state. By signing Compact Form III, the parolee or probationer waives the right to formal extradition proceeding and agrees not to contest any effort to return the parolee or probationer to the sending state.

770—27.4(247) Receiving cases in Iowa under the interstate compact.

27.4(1) The state of Iowa through the appropriate authorities shall accept supervision of out-of-state cases when a parolee or probationer meets the requirements of the interstate compact.

27.4(2) The state of Iowa shall exercise the same care and treatment that is given to Iowa cases, to notify the sending state promptly about any violations, antisocial behavior that may occur or the placement of any legal hold against the individual.

necessary to prevent harm to the resident or others or damage to property, or when utilized as a treatment method in which case the procedures in rule 28.4(5) will apply.

28.10(7) The resident shall be free from unnecessary or excessive medication or treatment intervention.

28.10(8) Medical records, ward charts and information regarding the evaluation, diagnosis, care and treatment shall be considered private and confidential.

28.10(9) An individual post-institutional plan shall be developed for each resident when release becomes an immediate goal.

28.10(10) When the resident is assigned to industrial therapy, the specific assignment shall be an integrated part of the treatment plan and such resident shall be appropriately supervised. The resident shall be compensated in accordance with federal and state laws for any work assignment.

28.10(11) The resident shall retain all the rights of full citizenship except as may be specifically limited by the constitution, statute, or court order.

28.10(12) The resident, parent, or legal guardian shall be advised of the provision of the law pertaining to admissions and discharge.

28.10(13) The resident may file application for a writ of habeas corpus and petition the court for release.

28.10(14) The resident may wear personal clothing and keep and use a reasonable amount of money as appropriate to the treatment program. The institution shall make provision for the laundering of the resident's clothing and will provide a reasonable amount of storage space for clothing and personal property.

28.10(15) When the resident does not have personal clothing or resources to purchase clothing, the institution shall furnish clothing which is clean, neat and seasonally suitable.

28.10(16) The resident shall have the opportunity for educational, vocational, rehabilitational and recreational programs as compatible with such resident's needs.

28.10(17) The resident shall have access to current informational recreational media, e.g., newspapers, televisions, or periodicals in keeping with such resident's treatment program.

28.10(18) The resident may participate in religious worship of personal choice in accordance with individual treatment program. Pastoral counseling shall be available when desired.

28.10(19) The resident shall be accorded privacy and uncensored communication with others by mail and telephone and with persons of the resident's choice except when therapeutic or security reasons dictate otherwise. Any limitations or restrictions imposed shall be approved by the superintendent or designee and the reasons noted shall be made a part of the resident's record.

28.10(20) The resident or any person acting on behalf of the resident may submit to the appropriate human rights committee in the institution or other appropriate authority for investigation and appropriate action complaints or grievances against any person, group of persons, organization, or business regarding infringement of the benefits of the mentally retarded person and delivery of the mental retardation services.

28.10(21) The rules for mentally retarded residents shall be publicly posted in each facility.

28.10(22) All rights and responsibilities of the resident shall devolve to the resident's guardian, next of kin, or sponsoring agency when:

a. A resident is adjudicated incompetent in accordance with state law.

b. A resident's physician has documented in such resident's record the specific impairment that has rendered such resident incapable of understanding the rights for the mentally retarded.

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CHAPTER 29 MENTAL HEALTH INSTITUTES

770—29.1(218) Visiting.

29.1(1) Visiting hours Monday through Friday are from 12 noon to 8:00 p.m., and 10:00 a.m. to 8:00 p.m. on Saturday, Sunday, and holidays. Exceptions for special hours may be designated by the physician on an individual or ward basis. Therapy for the patient shall take precedence over visiting and visiting shall not interfere with the patient's treatment program or meals. Visiting hours shall be posted in each institution.

29.1(2) A visit shall be terminated when behavior on the part of the patient or visitor is disruptive to the patient's treatment plan.

29.1(3) Reserved.

29.1(4) Persons wishing to visit patients shall be approved by the patient's attending physician or designee.

29.1(5) Visiting on grounds shall be permitted when the patient has a ground pass.

29.1(6) Visitors wishing to take a patient off grounds shall receive prior approval from the attending physician.

29.1(7) All visitors shall obtain a visitor's pass at the switchboard or another area as designated by the superintendent and posted. Such a pass shall be given to the ward personnel before the visitor is allowed on the ward.

29.1(8) Persons under twelve years of age shall not visit patients on the wards.

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CHAPTER 30 STATE HOSPITAL-SCHOOLS

770—30.1(218) Visiting.

30.1(1) The visiting hours at the state hospital-schools shall be 9:00 a.m. to 11:00 a.m.; 1:00 p.m. to 4:00 p.m. for on-ward visit; 8:30 a.m. to 8:30 p.m. for off-campus visit. Visiting hours may be extended at the superintendent's or designee's discretion when visitors are from great distances or when able to make only rare visits.

30.1(2) Persons wishing to visit residents must be approved by the resident's treatment team social worker designee prior to the visit.

30.1(3) The resident shall only be available when the resident is not actively involved in a scheduled treatment activity.

30.1(4) A visit shall be terminated when behavior on the part of the resident or visitor is disruptive to the resident's treatment plan.

30.1(5) Visitors wishing to take a resident off grounds shall obtain prior approval from the resident's treatment team social worker or designee.

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CHAPTERS 31 to 39

[Chs 33 and 34, 1973 IDR, rescinded June 11, 1975]
Reserved

TITLE IV AID TO DEPENDENT CHILDREN

CHAPTER 40 APPLICATION FOR AID

770—40.1(239) Definitions.

40.1(1) Whenever "the department" is used in this title it shall mean the Iowa department of social services.

40.1(2) Whenever "*the local office*" is used in this title it shall mean the local office of the department of social services.

770—40.2(239) Application. The application for aid to dependent children shall be submitted on Public Assistance Application, Form PA-2207-0. The application shall be signed by the applicant, the applicant's authorized representative, or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf.

40.2(1) Each individual wishing to do so shall have the opportunity to apply for assistance without delay.

40.2(2) An applicant may be assisted by other individuals in the application process; the client may be accompanied by such individuals in contact with the local office, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process.

40.2(3) The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the local office shall send the necessary forms in the next outgoing mail.

770—40.3(239) Date of application. The date of application is the date an identifiable Public Assistance Application, Form PA-2207-0, is received in the county. An identifiable application is an application containing a legible name and address, that has been signed.

770—40.4(239) Procedure with application. The decision with respect to eligibility shall be based primarily on information furnished by the applicant. The county shall notify the applicant in writing of additional information or verification that is required to establish

eligibility for assistance. Failure of the applicant to supply such information or refusal to authorize the county department to secure such information from other sources shall serve as a basis for denial of assistance. Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. Any time taken beyond the five days shall be considered a delay on the part of the applicant.

770—40.5(239) Time limit for decision. The applicant shall receive a money payment or a written notice of denial within thirty days from the date of application. Such time standard shall apply except in unusual circumstances, such as when the local office cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the county. When eligibility is dependent upon the birth of a child the time limit may be extended while awaiting the birth of the child.

770—40.6(239) Effective date of grant. The effective date of the grant shall be the date of application or the date the client becomes eligible, whichever is later.

770—40.7(239) Continuing eligibility.

40.7(1) A review of all eligibility factors shall be made no less frequently than:

- a. Every six months for aid to dependent children cases.
- b. Every six months for aid to dependent children foster care cases.
- c. Every three months for aid to dependent children unemployed father cases.

40.7(2) A redetermination of specific eligibility factors shall be made when:

- a. Requested by the recipient.
- b. A change in the recipient's circumstances comes to the attention of a staff member.
- c. The worker's previous experience with and knowledge of the case indicates a more frequent contact with the recipient to determine continued eligibility and the correctness of the assistance grant.
- d. When the central office of the department of social services selects certain factors of eligibility for a more frequent review because of the error rate.

[Filed June 23, 1955; amended August 30, 1972, June 3, 1975, June 27, 1975]

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CHAPTER 41 GRANTING ASSISTANCE

770—41.1(239) Eligibility factors specific to child.

41.1(1) *Age.* Aid to dependent children shall be available to a needy child under the age of eighteen years, or under the age of twenty-one years who is a student regularly attending school. A child is eligible for the entire month in which the child's eighteenth or twenty-first birthday occurs, unless the birthday falls on the first day of the month.

41.1(2) *Citizenship and alienage.* An aid to dependent children assistance grant may include the needs of a child who is a resident of the United States only when such child is either a citizen or an alien lawfully admitted for permanent residence or otherwise legally permanently residing in the United States as evidenced by suitable documentary proof furnished by the immigration and naturalization service of the United States Department of Justice.

41.1(3) *Residing with relative.* The child shall be living in the home of one of the relatives specified in subrule 41.2(3). When an unwed mother intends to place her child for adoption shortly after birth, the child shall be considered as living with the mother until such time as custody is actually relinquished.

a. Living with relatives implies primarily the existence of a relationship involving an accepted responsibility on the part of the relative for the child's welfare, including the sharing of a common household.

b. Home is the family setting maintained or in the process of being established as evidenced by the assumption and continuation of responsibility for the child by the relative.

41.1(4) *School attendance.* A child is considered regularly attending school when carrying a program of supervised education or vocational training consistent with the

standards of an appropriate educational or vocational education authority, either as a part of a regular school program or under special arrangements adapted to the individual child's educational needs. The child shall also be considered in regular attendance in months in which such child is not attending because of official school or training program vacation, illness, convalescence, or family emergency.

a. When the child's education is temporarily interrupted pending adjustment of the education or training program, assistance shall be continued for a reasonable period of time to complete such adjustment.

b. When the child graduates from high school, and presents evidence of plans to continue education, assistance shall be continued until the start of the next regularly scheduled school term of the school of the child's choice, at which time the school attendance requirement will again be met.

41.1(5) *Deprivation of parental care and support.*

a. A child is deprived of care and support by reason of continued absence of a parent from the home when the parent is estranged from the family, and not out of the home to secure employment or for other reasons which separate such parent from the family on the basis of living arrangement. However, an estrangement need not exist when the absence is due to one of the following:

- (1) Imprisonment.
- (2) Commitment or admission to an institution for any reason.
- (3) Induction into military service.

b. Aid to dependent children is available to a child of unmarried parents the same as to a child of married parents when all eligibility factors are met.

c. A parent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the child.

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

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

d. When a child is deprived of support or care of a natural parent, the presence of an able-bodied stepparent in the home shall not disqualify a child for assistance, provided that other eligibility factors are met. The income and resources of a stepparent shall be given the same consideration as that of a natural parent.

e. A father is considered partially or totally unemployed when he is employed less than one hundred hours a month; or, if he exceeds that standard for a particular month, his work is intermittent and the excess is of a temporary nature as evidenced by the fact that he was under the one hundred hour standard for the two prior months and is expected to be under the standard during the next month. Any dependent child who is deprived of parental care and support by reason of the unemployment of his father must meet the conditions of eligibility set forth in this chapter.

A father who is participating in the work incentive program under chapter 249C of the Code shall not be considered employed for purposes of this program.

770—41.2(239) Eligibility factors specific to payee.

41.2(1) *Age.* The relative who is granted assistance on behalf of eligible children must be eighteen years of age or older or have reached majority through marriage. Such relative may qualify as an eligible payee for the month in which the eighteenth birthday occurs.

41.2(2) *Citizenship and alienage.* An aid to dependent children assistance grant may include the needs of an adult who is a resident of the United States only when such adult is either a citizen or an alien lawfully admitted for permanent residence or otherwise legally

permanently residing in the United States as evidenced by suitable documentary proof furnished by the immigration and naturalization service of the United States Department of Justice.

41.2(3) Specified relationship. A child may be considered as meeting the requirement of living with a specified relative if such child's home is with one of the following or with a spouse of such relative even though the marriage is terminated by death or divorce:

Father—adoptive father.

Mother—adoptive mother.

Grandfather—grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather—adoptive grandfather.

Grandmother—grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother—adoptive grandmother.

Great-grandfather—great-great-grandfather.

Great-grandmother—great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.

Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.

Uncle—aunt, of whole or half blood.

Uncle-in-law—aunt-in-law.

Great uncle—great-great-uncle.

Great aunt—great-great-aunt.

First cousins—nephews—nieces.

41.2(4) Referral to child support recovery unit. When deprivation is based on the continued absence of a parent from the home, such parent's name and identifying information shall be referred to the child support recovery unit within ten days of application, but no later than two working days after the approval of assistance.

41.2(5) Assignment of support rights and co-operation obtaining support.

a. All case records for aid to dependent children shall contain a document prescribed by the commissioner assigning all required monthly support obligations and any potentially available support payments.

b. Any parent of other adult acting in the role of parents or caretaker of the child on whose behalf an application for aid to dependent children is being made or on whose behalf assistance is being received shall complete the assignment form. The requirement for assignment is limited to the parent or parents or other adult living in the home with the child on whose behalf an application is being made or assistance received.

In those cases where both the natural (or adoptive) parent and a stepparent are in the home with the children the stepparent shall not be required to sign the assignment form.

c. Any person who is required under the provision of subrule 41.2(5)“*b*” to make an assignment of support rights shall also be required to co-operate in establishing the following factors of eligibility for assistance in:

(1) Identifying and locating the parent of a child with respect to whom aid is claimed.

(2) Establishing the paternity of a child born out of wedlock with respect to whom aid is claimed.

(3) Obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed.

(4) Obtaining any other payments or property due such applicant or recipient or such child.

d. Failure to assign rights or to co-operate in establishing paternity and securing support shall result in the individual's need being removed from the grant and the grant paid through protective or vendor payments.

41.2(6) Furnishing of social security number. As a condition of eligibility each applicant for or recipient and all members of the eligible group must furnish a social security account number or proof of application for such a number if it has not been issued or is not known. Such requirement shall not apply to a payee who is not a member of the eligible group.

770—41.3(239) Home and residence.

41.3(1) *Iowa residence.* A child is considered to be a resident of Iowa when such child is living in the state as part of a plan made by the persons responsible for the child's care, custody, and control.

41.3(2) *Suitability of home.* The home shall be deemed suitable until such time as the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

41.3(3) *Institutional status.*

a. A private institution is a charitable, benevolent, fraternal, or privately operated facility established to provide food and shelter to two or more persons unrelated to the proprietor that is not tax supported. Such institution may also provide additional services beyond food and shelter. A person living in a private institution is eligible for aid to dependent children only when:

(1) Such person is a child eligible for aid to dependent children foster care.

(2) Such person is in a medical institution and qualifies for assistance under subrule 41.3(3)"d".

(3) Such person is an adult residing in a residential care facility licensed under chapter 135C of the Code and is out of the home of the eligible group on other than a permanent basis.

b. A public institution is an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. A public institution includes a penitentiary, reformatory, or jail; a sanatorium or hospital established primarily to provide care and treatment of mental illness or tuberculosis; or a county care facility. A person living in a public institution is eligible for aid to dependent children only when:

(1) Such person is in a public educational or vocational training institution for purposes of securing educational or vocational training.

(2) Such person is in a medical institution and qualifies for assistance under subrule 41.3(3)"d".

c. When publicly owned property has been rented or leased under the terms specified below, the facility is not considered a public institution, and eligibility requirements are the same as for an individual living elsewhere. A person renting a house, apartment, or rooms from a public housing agency is not considered to be living in a public institution or in publicly owned property.

(1) Total use of the property has been transferred, by official action which is a matter of public record, or by lease, to a private individual, association, or corporation.

(2) No financial support is provided by the governmental owner to the group or individual renting or leasing the property.

(3) No authority is exercised by the governmental unit in the administration or formulation of policy.

(4) No restriction is exercised on the right of residents to change their place of residence or to use their assistance payment as they desire.

d. A medical institution is a facility which is organized to provide medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility's license. Medical institutions include hospitals, extended care facilities, and intermediate care facilities. A patient is defined as a person in need of and receiving personal services directed by a licensed practitioner of the healing arts toward maintenance, improvement or protection of health or alleviation of illness, disability or pain. A person who is a patient in a medical institution is eligible for aid to dependent children only when:

(1) Such person is out of the home of the eligible group on other than a permanent basis.

(2) Such person is not in a medical institution established and maintained primarily for the care and treatment of individuals with tuberculosis or mental disease.

(3) When such person is in a public institution, eligibility continues only so long as the person is classified as a patient.

e. A person on conditional release or convalescent leave from a mental health institution is not considered to be a patient in such an institution.

41.3(4) Temporary absence.

a. Temporary absence from the state, of either the child or the parent or other relative, with intent to return when the purpose of the absence has been accomplished, shall not be considered to have interrupted residence.

b. Assistance shall be continued to the recipient with whom the child has been living when the child leaves the home for a temporary period, provided the recipient maintains control over the child during such absence.

c. When the child is out of the home to secure education or training, assistance shall continue as long as the relative retains supervision of the child. The child must remain a member of the relative's family group and return to the home periodically. This rule shall not apply to a child in a foster care arrangement.

770—41.4(239) Work incentive program registration. Each member of the eligible group, or each person for whom income is diverted, must register for the work incentive program unless the local office determines such person is exempt.

41.4(1) Exemptions. The following persons are exempt from registration.

a. A child who is under the age of sixteen or between the ages of sixteen and twenty-one and attending school full time.

b. A person over the age of sixty-five or who is prevented from engaging in employment or training because of a temporary or permanent medically determinable physical or mental impairment. Medical evidence may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in subrule 41.1(5)"c".

c. A person who lives so far away from any work incentive program project that such person cannot effectively participate. The individual is exempt if more than a total of ten hours would be required for a normal work or training day, including a round trip by reasonably available public transportation or automobile from home to the project. Persons in areas without a work incentive program project are considered exempt.

d. A person required in the household on a substantially continuous basis because of a medically determinable condition of another member of the household. Such condition shall be established in the same manner as specified in subrule 41.1(5)"c".

e. A mother or other eligible caretaker relative of a child under the age of six who is caring for the child.

f. A mother or other female caretaker of a child, where the father or another male relative in the home is required to be registered.

41.4(2) Changes in status. Any exempt person shall report any change affecting the exempt status to the income maintenance worker within five days of the change.

41.4(3) Volunteers. Any person who is determined exempt may volunteer for registration.

41.4(4) Registration. Any mandatory or voluntary registrant shall be referred to the job service of Iowa for completion of the registration forms.

41.4(5) Referral to vocational rehabilitation. Any person determined exempt from registration because of a medically determinable physical or mental impairment shall be referred to the rehabilitation and education service bureau. Acceptance of vocational rehabilitation services is optional with the client.

41.4(6) Refusal to register. The needs of any mandatory registrant who refuses to register shall be excluded from the assistance grant. A person who has signed the registration form, but has consistently failed to appear for appraisal shall be deemed as refusing to register.

41.4(7) Refusal to participate. When job service of Iowa determines that a mandatory registrant refused to participate in training or accept a bona fide offer of employment without good cause, the department shall initiate a sixty-day counseling period. When the

individual is still unwilling to participate, such individual's needs shall not be paid in the assistance grant, and when such individual is the payee the county shall appoint a protective payee or establish a vendor payment arrangement.

a. When an individual has been removed from the work incentive program because of refusal to participate, such individual may register again when:

(1) Three aid to dependent children monthly assistance warrants have elapsed subsequent to the reduction or termination of aid to dependent children benefits.

(2) The individual has provided evidence of willingness to participate in the work incentive program.

b. When an individual refuses to participate without good cause a second time, reregistration shall not take place until:

(1) Six aid to dependent children monthly assistance warrants have elapsed subsequent to the reduction termination of aid to dependent children benefits.

(2) The individual has provided evidence of willingness to participate in the work incentive program.

770—41.5(239) Uncategorized factors of eligibility.

41.5(1) *Divesting of income.* Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

41.5(2) *Duplication of assistance.* No person whose needs are included in an aid to dependent children grant shall concurrently receive a grant under any other public assistance program administered by the department.

41.5(3) *Aid from other funds.* Supplemental aid from any other agency or organization shall be limited to aid for items of need not covered by the department's standards and to the amount of the percentage reduction used in determining the payment level. Any duplicated assistance shall be considered unearned income.

41.5(4) *Contracts for support.* A person entitled to total support under the terms of an enforceable contract is not eligible to receive aid to dependent children when the other party, obligated to provide such support, is able to fulfill that part of the contract.

770—41.6(239) Resources.

41.6(1) *Limitation.* An applicant or recipient may have the following resources and be eligible for aid to dependent children.

a. A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the recipient. The value of any other real property shall be considered with personal property.

b. Household goods and heirlooms without regard to their value.

c. Life insurance not to exceed \$1000 in face value multiplied by the number of eligible persons. However, when the face value exceeds these limitations, the cash value shall be substituted for the face value in determining whether the insurance is within the limitations.

d. An equity not to exceed a value of \$2500 in an automobile or automobiles.

e. Savings from income earned by eligible children after the family has been approved for assistance.

f. A reserve of other property, real or personal, not to exceed \$800 for the first person in the eligible group plus \$400 for each additional eligible person.

g. An amount not to exceed the need of the eligible group for one month, based on the payment standard, when such amount is either cash on hand or in a checking account.

h. Payments which are exempted for consideration as income under subrules 41.7(5) "i", "j", "m", "n", "r", "s", (3), "s"(4), "t", "u", and "v".

i. When the value of any resource is exempted in part, that portion of the value which exceeds the exemption shall be considered in computing whether the eligible group's property is within the reserve defined in paragraph "f".

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

41.6(3) *Homestead defined.* The homestead consists of the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. When within a city plot, it shall not exceed one-half acre in area. When outside a city plot it shall not contain, in the aggregate, more than forty acres. When property used as a home exceeds these limitations, the equity in the total property shall be considered against the value of the exempt property before being considered as equity in the excess property.

41.6(4) *Liquidation.* When proceeds from the sale of resources, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the maximum exemption has been expended, at a reasonable rate, to meet living expenses unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

a. When property is sold on contract and the proceeds are used to purchase a homestead or reduce the mortgage on a homestead, the monthly payments received in excess of the payments made on the homestead mortgage or purchase shall be considered as income. The balance due on the sales contract is not considered a resource.

b. When property is sold on contract and the proceeds are not used to purchase a homestead or reduce the mortgage on a homestead, the monthly payments on the contract shall be considered as income. The balance due on the sales contract is not considered a resource.

770—41.7(239) *Income.* All assured income, whether in cash or in kind, as determined by the following rules, shall be considered in establishing that need exists and shall be deducted from the needs requirements to determine the amount of the grant.

41.7(1) *Securing income.* Unless otherwise provided for in these rules, every person in the eligible group shall take whatever legitimate action may be necessary to secure benefits from other sources. When a person refuses to accept other benefits that are available, such person's needs shall not be included in the assistance grant.

41.7(2) *Income definitions.*

a. Constant income is when the pay period, or frequency which it is received, and the gross income remain the same.

b. Variable income is that income which may or may not be received at regular frequencies or the gross income received is not constant.

c. Earned income is income in cash or kind earned in the form of a salary, wages, tips, commissions received as an employee, or profit from self-employment by the operation of a farm or business, managing rental property or providing board and room or nursing care services to other persons.

(1) Earned income includes training incentive payments and work allowances under the Manpower Development and Training Act, payments under the Economic Opportunity Act, earnings under Title I of the Elementary and Secondary Education Act, and earned income from activity under the work incentive program.

(2) When a person is employed by another, earned income is the total gross amount. When a person is self-employed, earned income is the gross income less the cost of producing the income.

d. Unearned income is any income that is not earned income.

41.7(3) *Initial eligibility.* At the time of application all earned and unearned income of the eligible group, except the earnings of children under fourteen years of age shall be considered in determining if there is need according to the schedule of living costs. If a deficit exists, the eligible group shall then be given the appropriate exemptions in determining the amount of the grant. The same procedure shall be followed in considering

income in the case of reapplication except when for any one of the four months immediately preceding the date of reapplication, the needs of the individual having the income were met in whole or in part by an aid to dependent children grant. Such person is automatically eligible for the exemptions from earned income.

41.7(4) Computation of income. Income considered will be the expected income available to meet the needs of the eligible group during the current month.

a. Constant income is computed as follows:

- (1) Weekly income is multiplied by 4.3.
- (2) Income received every two weeks is multiplied by 2.15.
- (3) Income received twice a month is multiplied by 2.

b. Variable income shall be computed by averaging on a monthly basis the applicant's or recipient's income for the six full calendar months immediately preceding the date of application or review of eligibility. When the applicant or recipient has had no income during one or more of the six calendar months, the average shall be computed by using the actual number of months during which income was received.

(1) When there has been a change in income during the period of averaging, computation of income shall reflect the change, and future averaging shall be based on the months since the change in income.

(2) The variable income of the self-employed shall be averaged over a six month review period except when fifty percent or more of the annual income is received at one time. In such case the income shall be averaged on a twelve-month basis. It shall be the responsibility of the applicant or recipient to furnish or help furnish such verification as may be necessary to establish the income received during the review period.

c. Lump sum income received by applicants or recipients other than self-employed, shall be prorated over the number of calendar months for which the income was received. When the income is of such an amount as will meet the needs of the family for at least one month or more, the recipient may request cancellation of assistance during the interval the family is self-supporting.

d. When the recipient is renting out property other than in the recipient's home, the following shall be deducted from gross rental received to determine the profit.

- (1) Taxes
- (2) Insurance premiums.
- (3) Actual expenditures for upkeep.
- (4) Mortgage or lien payments, including interest.
- (5) Any other expenses required by law or the terms of the rental agreement.

e. When the recipient is renting out rooms or apartments in the recipient's home, the following shall be deducted from gross rental received to determine the profit.

(1) Shelter expense in excess of that set forth on the chart for determining income in kind.

(2) That portion of expense for utilities furnished to tenants which exceeds the amount set forth on the chart for determining income in kind.

(3) Ten percent of gross rentals.

f. In determining profit from furnishing room or board, the following amounts shall be deducted from payments received.

- (1) \$88.00 for a boarder and roomer.
- (2) \$46.00 for a roomer.
- (3) \$42.00 for a boarder.

g. Retroactive benefits received in a lump sum shall be considered as income for the month following that in which such benefit is received or reported, and used to meet maintenance and medical expenses during the month. Any amount in excess of one month's needs shall be considered a resource. Lump sum retroactive benefits are benefits that represent accumulated unearned income and are directly tied to a continuing income amount.

h. Contributions in kind are considered as income only when such contribution is for an item recognized as a basic or special need as defined in subrules 41.8(2) and 41.8(3) and represents the full cost of the item.

i. When a member of the eligible group is a beneficiary of a trust, such person shall present a petition to the court requesting release of the funds to help meet current basic or special needs. Payments received from the trust for basic or special needs are considered income.

41.7(5) *Exempt income.* The following income of the eligible group is exempt from consideration as income.

a. The first thirty dollars per month of earned income plus one-third of the excess over thirty dollars of said income.

b. The earnings of an eligible child under fourteen years of age.

c. The earnings of an eligible child fourteen years of age or over who is:

(1) A full-time student attending school pursuing a course of study leading to a diploma or its equivalent; or,

(2) A part-time student, who is not a full-time employee, attending school pursuing a course of study leading to a diploma or its equivalent; or,

(3) Regularly attending a course of vocational or technical training designed to fit such student for gainful employment; or,

(4) Is a participant in the Job Corps program under the Economic Opportunity Act of 1964.

d. Work expenses, not to exceed earned income.

(1) Taxes as determined by federal and state withholding tables.

(2) Federal Insurance Contribution Act payments.

(3) Thirty dollars per month to cover mandatory withholding, transportation, lunches while at work, special uniforms and work clothes, tools and materials required by the employer as a condition of employment, and union dues. When actual expenses exceed thirty dollars per month, the recipient may request that actual expenses be considered when such expenses can be verified.

(4) The actual cost of child care not to exceed the going rate in the community.

e. Loans and grants obtained and used under conditions that preclude their use for current living costs.

f. Income of less than one dollar per month from any one source.

g. Compensations or benefits received by a child that are restricted by law to such child's use and benefit only when such child is not included in the eligible group. Such income shall be used to meet the needs of the child. However, any portion of such child's income that is made available to the eligible group shall not be considered exempt.

h. Food reserves from home produced garden products, orchards, domestic animals, and the like when consumed by the recipient and household.

i. The value of the coupon allotment in the food stamp program in excess of the amount paid for the coupons.

j. The value of United States department of agriculture donated foods given to a recipient.

k. Supplementation from county funds to the extent that it meets a percentage reduction in grants or is for an item not recognized as a basic or special need.

l. Any payment received as a result of an urban renewal or low cost housing project from any governmental agency, federal, state, or local, unless the cost of shelter is furnished in full.

m. Any highway relocation assistance paid under the Federal Aid Highway Act of 1968 and any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

n. Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe.

o. The income of a supplemental security income recipient.

p. Any income which is restricted to the sole use of a child being removed from the eligible group of an active aid to dependent children case to be placed in aid to dependent children foster care shall be considered only in the computation of the aid to dependent children foster care payment.

q. Payment received by the family for providing foster care to a child when the family is operating a licensed foster home.

r. Payments to recipients from programs established by the Domestic Volunteer Service Act in establishing continuing eligibility. In determining initial eligibility only reimbursement for out-of-pocket expenses or for supportive services shall be disregarded.

s. Any money received for educational or training purposes to the extent it is used for educational or training expenses. Unless otherwise specified below, money left after such expenses is considered available for maintenance.

(1) The training allowance issued by the rehabilitation and education services bureau to cover additional costs due to an individualized rehabilitative training plan is exempt, unless such income is received as wages.

(2) The incentive payment and training allowance under the work incentive program and the work and travel allowance under an individual education and training plan are exempt.

(3) The incentive allowance of \$30.00 per week and any payment for training related expenses or employment related expenses made to trainees under the Comprehensive Employment and Training Act of 1973 shall be exempt. The thirty plus one-third disregard of earned income shall apply to any wages received as a result of participation in on-the-job training, nonwork incentive program public service employment or a work experience program. The basic and dependent's allowance shall be considered as unearned income until such allowance is canceled by the Comprehensive Employment and Training Act agency.

(4) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the commissioner of education shall be exempt in its entirety and not considered either as income or a resource.

(5) Any benefit or portion of a benefit received by a child between the ages of eighteen and twenty-one conditioned upon school attendance that is used to meet a school expense not covered by the aid to dependent children grant shall be exempt.

t. Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

u. The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended.

v. Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under section 21(a) of the Act.

41.7(6) *Income of stepparent.* The income of a stepparent living in the home shall be given the same consideration and treatment as that of a natural parent, except that the disregard of the first thirty dollars per month plus one-third of the excess of earned income shall not apply.

41.7(7) *Diversion of income.* Nonexempt income of the eligible group may be diverted to:

a. Meet the unmet needs of dependent but ineligible children of the aid to dependent children parent or parents living in the family group.

b. Meet the current established medical needs of the eligible group or of ineligible but dependent children which cannot be met under the medical assistance program. In no case shall income be diverted to meet accumulated obligations incurred prior to the month for which income is diverted.

c. Permit payment by an aid to dependent children parent of court-ordered child support to children of a previous marriage not living with such parent when such payment is actually being made.

41.7(8) *Forfeiture of earned income disregard.* A member of the eligible group entitled to the disregard of the first thirty dollars per month plus one-third of the excess of earned income shall forfeit entitlement to such disregard for one month if, within thirty days preceding such month, the individual

a. Reduced such individual's earned income without good cause.

b. Refused without good cause to accept a bona fide offer of employment in which such individual is able to engage.

770—41.8(239) Need standards.

41.8(1) *Definition of the eligible group.* The eligible group shall include the following persons living together, except when one or more of these persons has elected to receive supplemental security income under Title XVI of the Social Security Act or the applicant or recipient has elected to exclude an eligible child as specified under subrule 44.8(2).

a. The eligible children.

b. The natural or adoptive parent, or both parents if one is incapacitated or if the father is partially or totally unemployed.

c. The needy relative who assumes the role of parent.

d. The needy relative who acts as payee when the parent is in the home, but is unable to act as payee.

e. The incapacitated stepparent, upon request, when such stepparent is the legal spouse of the natural or adoptive parent by ceremonial or common law marriage.

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

41.8(2) *Basic needs.* The schedule of living costs is used to determine the basic needs of those persons whose needs are included in and are eligible for an aid to dependent children grant. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of living costs is also used to determine the needs of persons not included in the assistance grant, but who may have an obligation to contribute their income over and above their needs to the persons in the eligible group. The schedule of living costs represents one hundred percent of basic needs. When funds in the aid to dependent children program are insufficient to provide assistance on a one hundred percent basis, the allowances in the schedule shall be reduced proportionately and equitably.

Schedule of Living Costs

Number of Persons	1	2	3	4	5	6	7	8	9	Each Additional
Amount	\$153	\$234	\$309	\$376	\$435	\$480	\$546	\$608	\$657	\$73

CHART FOR DETERMINING INCOME IN KIND SCHEDULE OF LIVING COSTS (all figures are on a per person basis.)

Number of Persons	1	2	3	4	5	6	7	8	9 or more
Shelter	43.75	30.00	25.50	22.00	19.00	16.00	14.75	13.50	12.00
Utilities	23.75	15.25	12.00	10.25	8.75	7.00	6.75	6.50	5.50
Supp. & Repl.	10.00	5.75	4.25	3.50	3.00	2.75	2.50	2.25	2.00
Food	41.00	37.00	35.50	34.00	32.75	31.50	31.50	31.50	31.50
Clothing	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00
Per. Care & Supp.	7.25	7.25	7.25	7.25	7.25	7.25	7.25	7.25	7.25
Med. Cab. Supp.	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50
Communications	13.75	8.25	5.00	3.50	2.75	2.00	1.75	1.50	1.25

a. When a child is attending the Iowa Braille and Sight Saving School or the Iowa School for the Deaf, such child's needs shall be included in the grant if otherwise eligible.

b. When a child is receiving social security benefits or other governmental benefits similarly restricted by law to the child's use and benefit alone, the payee shall have the choice of whether or not that child is included in the eligible group. When such child is not included in the eligible group, the child shall be allowed to meet such child's needs from the child's income according to the schedule of living costs. The remainder shall be conserved for the future needs of the child.

c. The needs of a child in a nonparental home when the relative is not a member of the eligible group shall be the needs of a one person eligible group.

d. When an unmarried mother under the age of eighteen is living with her parents who are not on public assistance, the needs of the unmarried mother shall not be included in the grant.

e. When a member of the eligible group is receiving nursing care in the person's own home, the need for such care must be established by a physician. In addition to the basic needs, an allowance shall be included for the cost of the nursing care, except that such allowance when added to one recipient's needs in an eligible group of four persons shall not exceed the maximum rate of payment for care in an intermediate care facility. No payment can be made to a member of the eligible group to provide such care. When help is hired to provide the nursing care, an allowance to cover the employer's share of the social security tax may also be added.

f. When a person who would ordinarily be in the eligible group has elected to receive supplemental security income benefits, such person, income and resources, shall not be considered in determining aid to dependent children benefits for the rest of the family.

g. When a child is under the age of eighteen, not attending school, and has income such child will not make available to the eligible group, the payee shall have the choice of whether or not that child is included in the eligible group. When the child is not included, such child, income, and resources, shall not be considered in determining aid to dependent children benefits for the rest of the family.

h. When a child is receiving child support payments from an absent parent, the payee shall have the choice of whether or not that child is included in the eligible group. When such child is not included in the eligible group, the child shall be treated in the same manner as specified in subrule 41.8(2)"b".

i. When the payee does not wish a referral to the child support recovery unit to be made, the payee shall have the choice of whether or not the child for whom the referral is to be made is included. When such child is not included, the child, income, and resources, shall not be considered in determining aid to dependent children benefits for the rest of the family.

j. When a member of the eligible group is temporarily out of the home to receive nursing or custodial care, payment for such care shall be made under rules established for such programs. The aid to dependent children grant shall be figured as if the person were in the home; the allowances, as determined by the chart for determining income in kind, or food, clothing, personal care and supplies, medicine chest supplies, and communications, subtracted; and the personal allowance for the appropriate program added.

k. When two individuals, married to each other, are living in a common household and the children of each of them are recipients of assistance, the assistance grant shall be computed on the basis of their comprising one eligible group. This rule shall not be construed to require that an application for assistance be made for children who are not the natural or adoptive children of such applicant.

41.8(3) Special needs. On the basis of demonstrated need the following special needs shall be allowed, in addition to the basic needs.

a. *Property repair.* When the department agrees that expensive repairs or improvements are necessary to make or keep the recipient's homestead habitable, an allowance shall be included in the grant.

b. Tree removal. When a legal notice has been served on a recipient property owner requiring the removal of dead or dangerous trees from the homestead an allowance shall be included in the grant to cover the lowest established cost.

c. Special tax assessment. An allowance sufficient to cover the annual payment due on an assessment on a homestead shall be included in one month's grant.

d. School expenses. Any specific charge for a child's education made by the school or in accordance with school requirements in connection with a course in the curriculum shall be allowed. This does not include ordinary expenses for school supplies.

e. Child care. When a need is established for child care by reason of a caretaker's health, enforced absence from the home, or for some other emergent and compelling reason beyond the control of the child's caretaker, other than for reasons of employment, an allowance for child care not to exceed the going rate in the community shall be made.

f. Personal services. An allowance for personal services may be included in the assistance grant only when the physical or mental condition of the adult recipient prevents the performance of those tasks necessary to daily living or because of lack of skill needs assistance in household maintenance or management. No allowance shall be made for those services only indirectly related to the individual's welfare such as yard work, snow shoveling, errands and seasonal or irregular housecleaning. No payment shall be made to a member of the eligible group to provide such services. When required, an allowance may be also be made to cover the employer's share of the social security tax.

41.8(4) Period of adjustment. When a parent recovers from the condition which caused incapacity, or when an absent parent returns to the home, assistance shall continue if there is need for a period not to exceed the issuance of three warrants.

770—41.9(239) Composite ADC/SSI cases. When persons in the aid to dependent children household, who would ordinarily be in the eligible group, are receiving supplemental security income benefits, the following rules shall apply.

41.9(1) Pending SSI approval. When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, such person's needs may be included in the aid to dependent children grant pending approval of supplemental security income.

41.9(2) Ownership of property. When property is owned by both the supplemental security income beneficiary and the aid to dependent children recipient, each shall be considered as having a half interest in order to determine the value of the resource, unless the terms of the deed or purchase contract clearly establish ownership on a different proportional basis.

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CHAPTER 42
DEPENDENT CHILDREN OF UNEMPLOYED FATHERS

770—42.1(239) Bona fide defined. In determining whether a dependent child's father has refused a bona fide offer of employment, the term "bona fide" shall mean the following:

42.1(1) A definite offer of employment at wages no less than the federal minimum wage requirement.

42.1(2) The father has no physical reason that prevents his engaging in such employment, and neither is he prevented from accepting the employment by reason of having no way to or from the particular job.

42.1(3) There are no unreasonable risks to health or safety because of working conditions, and the position is covered by workmen's compensation protection.

In the case of offers of employment made through the Iowa state employment service, the determination as to whether the offer was bona fide, or whether there was good cause to refuse it, will be made by that agency.

770—42.2(239) Father's requirements. The dependent child's father must meet the following requirements.

42.2(1) Have six or more quarters of work within any thirteen calendar quarter period ending within one year prior to the application of aid, or

42.2(2) Have within such one year period received unemployment compensation benefits, or

42.2(3) Would have been eligible to receive unemployment compensation benefits upon filing application, or he performed work not covered by such law which, if it had been covered, would, together with any covered work he performed, have made him eligible to receive such benefits upon filing application.

A quarter of work means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, in which such father received earned income of not less than fifty dollars or in which he participated in the work incentive program as authorized by chapter 249C of the Code.

770—42.3(239) Denial of assistance. Assistance shall be denied with respect to any week the dependent child's father receives unemployment compensation benefits.

770—42.4(239) Determination of eligibility. The eligibility of a child to receive aid by virtue of his father's unemployment shall be determined at least every three months.

770—42.5(239) Assistance continued. When a dependent child's father becomes employed, assistance shall continue if there is need for a period not to exceed the issuance of three warrants.

[Filed October 24, 1973]

CHAPTER 43 ALTERNATE PAYEES

770—43.1(239) Conservatorship or guardianship.

43.1(1) When application is filed for aid to dependent children by a person under conservatorship or guardianship, a copy of the court order shall be secured by the local office. Assistance payments shall be made to the conservator or guardian to be allocated for the support and care of the dependent child.

43.1(2) The local office may require, as a condition for granting assistance, the appointment of a conservator or guardian when it is felt the parent or other adult is unable to manage the expenditure of assistance in the best interests of the dependent child or that it is necessary to protect the assistance funds provided for the support of the child.

a. When the conservatorship or guardianship is for the parent or other adult the conservator or guardian need not live with or be related to the dependent child.

b. When the conservatorship or guardianship is for the dependent child, the conservator or guardian shall be of the required relationship as specified in rule 41.5(239), and be living with the child.

770—43.2(239) Protective payments.

43.2(1) Protective payments shall be made to a protective payee when a recipient has demonstrated severe difficulties in managing money, but has the capacity to learn, in a relatively short time, to manage funds in a reasonably adequate manner. Protective payments may be utilized in the following instances:

a. When the aid to dependent children payee has clearly demonstrated such inability to manage funds that the needs of the children have not been reasonably served.

b. When the aid to dependent children payee, who has been deemed appropriate for employment or vocational training, without good cause refuses such employment or training.

c. When a parent or other adult fails to co-operate in establishing paternity, securing support or completing the assignment of support for a child for whom assistance is being applied or received.

43.2(2) Consideration shall be given to the appointment of a protective payee when there is clear and specific evidence that the aid to dependent children payee persistently mismanages the assistance payments to the detriment of the children. Such evidence includes, but is not limited to:

a. Continued refusal or inability to properly feed and clothe the dependent children.

b. Continued expenditures made for nonessentials or for other items so as to threaten the children's chances for healthy growth and development.

c. Continued, persistent, and deliberate failure to meet obligations for rent, food, school supplies, or other essentials.

d. Repeated evictions or incurrence of debts with attachments or levies made against current income.

e. Continued inability to plan and spread necessary expenditures over the usual period between assistance checks.

43.2(3) The local office has the responsibility for determining whether to recommend a protective payee, in selecting the payee, recommending termination of the arrangement, and providing casework services directed toward increasing money management skills of the recipient.

43.2(4) The selection and appointment of a protective payee shall be in accordance with the following standards.

a. Interest in and concern with the well-being of the recipient family. This interest may have been demonstrated by regular and frequent visits to the family or past efforts to help the family at time of crisis.

b. Interest, ability, and the time to help the family to make proper use of the assistance payment in connection with ordinary household budgeting. This ability may have been demonstrated by past experience in purchasing food and clothing and household supplies within a restricted income or other knowledge of effective household money management practices.

c. Geographical proximity or means of transportation to the family to be accessible for frequent consultation on household budgeting and other household money payment problems.

d. Ability to establish and maintain positive relationships with members of the family. The protective payee must assume a teaching role to facilitate the acquisition of new money management skills.

e. A responsible, dependable, and reliable individual with the capacity to handle highly confidential family information and to handle money which is vital and essential to another family's daily well-being.

f. Not an individual with a direct or indirect interest in the disposition of the assistance payment, such as the executive officer of the agency, landlord, grocer, or other vendor of goods and services dealing with the recipient.

g. Not an employee of the local office.

43.2(5) The protective payee shall manage or supervise and make basic decisions about the expenditure of the assistance payment. As the recipient demonstrates the ability to use the funds appropriately, the protective payee shall gradually increase self management until the recipient is able to manage the entire assistance payment. The protective payee shall make a quarterly report to the local office of general expenditures and progress being made by the recipient in money management within thirty days following the end of each three-month period.

43.2(6) A protective payment arrangement for persons specified in subrule 43.2(1) shall be limited to twelve months.

43.2(7) Each protective payment arrangement for persons specified in subrule 43.2(1) shall be evaluated at least every three months. A decision shall be made whether to:

a. Restore the recipient to regular money payment status,

b. Continue the recipient under protective payment status, or

c. Arrange for the appointment of a conservator or guardian when it appears that the recipient is unable to respond to the beneficial effects of the protective payment plan or progress is so slow as to require continuation of the plan beyond the time limitation on protective payments.

43.2(8) Protective payments for persons specified in subrule 43.2(1) "a" shall be limited to ten percent of the total aid to dependent children caseload.

770—43.3(239) Vendor payments.

43.3(1) A vendor payment or payments may be made in an emergency situation when the recipient has become so involved financially that proper care for the family may be secured only with a guarantee of payment from the department. A vendor payment or payments may be made upon the request of the recipient or when the local office determines it is necessary to extricate the family from financial difficulties or to comply with the provisions of the work incentive program. Emergency situations include, but are not limited to:

- a. Eviction and inability to find other shelter.
- b. Termination of or refusal to provide utilities by the utility company.
- c. The necessity to provide such essentials as food, clothing, and shelter for dependent children.
- d. Continued inability on the part of the payee to manage funds for the benefit of the family, but time is needed to secure a protective payee or a conservator or guardian.

43.3(2) Vendor payments shall be authorized subject to the following limitations:

- a. Vendor payments shall be authorized only by the local administrator.
- b. Vendor payments shall be authorized only with the knowledge and consent of the recipient except in those instances where the vendor payment provision is utilized on an emergency basis to protect the family pending the completion of other arrangements.
- c. Vendor payments shall be authorized only to meet emergent situations which limit the recipient's ability to furnish care for children.

d. Vendor payments shall be authorized monthly. When such payments are needed for a period in excess of two months, approval shall be granted by the district income maintenance supervisor or designee.

e. Vendor payments shall be a part of the limitation specified in subrule 43.2(8).

43.3(3) The amount of vendor payment shall be established in the following manner:

- a. A vendor payment or payments shall be for a specific item or items of need.
- b. The recipient, worker, and vendor shall mutually agree upon the quantity, kinds, and quality of goods or services to be provided and the amount to be paid, except in those instances where the vendor payment is necessary as described in subrule 43.3(1) without the consent of the payee.

c. The entire item of need established in 43.3(3)"a" shall be covered by the vendor payment except in those instances where the aid to dependent children grant is less than the amount needed for the vendor payment. In such instances the amount of the vendor payment shall not exceed the amount of the assistance grant.

d. Before a vendor payment is established, consideration shall be given to the family's entire financial situation so that the vendor payment will not jeopardize the funds needed for the family's other expenses.

e. When a vendor payment is established because of a recipient's failure to participate in the work incentive program, such payment shall be fifty percent or more of the total assistance paid for the month.

f. The balance of the assistance payment not used for the vendor payment shall be paid to the recipient in the form of a regular assistance warrant.

43.3(4) The local office shall send the vendor two copies of form F&CS-3157-5, Authorization for Vendor Payment. The vendor shall complete and return one copy of the form to the local office along with a copy of the billing, invoice or statement.

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CHAPTER 44 AID TO DEPENDENT CHILDREN FOSTER CARE

770—44.1(239) Eligibility. A child is eligible to receive aid to dependent children foster care when the following requirements are met.

44.1(1) The child must have been receiving aid to dependent children in the home of the child's parents or a specified relative in or for the month in which court proceedings

were initiated for removal from the home, or would have received assistance had application been made; or had, within six months prior to the month in which the proceedings were initiated, been living with a specified relative, and would have received assistance in and for the month in which the proceedings were begun had the child continued to live with that relative and application had been made.

44.1(2) The child continues to meet the aid to dependent children eligibility requirements as specified in chapter 41 of rules of the department of social services.

a. The eligibility requirement of deprivation of parental care and support shall be established by the circumstances of the child's natural or adoptive parents. When parental rights have been terminated subsequent to initial determination of eligibility, the child continues to meet the eligibility factor of deprivation.

b. The eligibility requirement of need shall be established by the income and resources of the child.

44.1(3) The child is placed in a licensed foster home, in a private, nonprofit child-caring institution, or under the care of a licensed child-placing agency.

44.1(4) The child must have been removed from the home by judicial determination after April 30, 1961, and the court order must remain in effect during the period of eligibility.

44.1(5) Legal custody of the child is given to the Iowa department of social services.

770—44.2(239) Plan of care. The service worker shall develop a plan of care for each child in aid to dependent children foster care which takes into consideration the individual needs of the child and assures proper care while in a foster home or child-caring institution. Such plan shall be reviewed at least every six months.

770—44.3(239) Application. An application for aid to dependent children foster care shall be filed on behalf of the child by the income maintenance worker.

770—44.4(239) Payment. Payment shall be made in accordance with chapter 137 of rules of the department of social services.

770—44.5(239) Income. Any income which is restricted to the sole use of the child being removed from the eligible group of an active aid to dependent children case shall be made available to the child and shall be considered in the computation of the aid to dependent children foster care payment when made available.

770—44.6(239) Services. Services shall be available to the child, parents, and foster parents in an aid to dependent children foster care case the same as in the regular foster care program.

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CHAPTERS 45 to 49

[Ch 45, January 1974 IDR Supplement, renumbered as Ch 42]

TITLE V

STATE SUPPLEMENTARY ASSISTANCE

CHAPTER 50

APPLICATION FOR ASSISTANCE

770—50.1(249) Definitions.

50.1(1) Payment for custodial care. "Payment for custodial care" shall mean payment to a recipient living in a custodial home who is determined to be in need of such care and when the amount of such payment is determined on a cost-related basis.

50.1(2) *Payment for a protective living arrangement.* "Payment for a protective living arrangement" shall mean payment to a recipient living in an adult foster home, boarding home or family life home. Such payment shall be made in accordance with standards established by the department by rule in chapter 52.

50.1(3) *Payment for a dependent relative.* "Payment for a dependent relative" shall mean payment to a recipient on behalf of a dependent relative as defined in section 249.3(3), Code of Iowa.

770—50.2(249) Application procedures.

50.2(1) Any person applying for payment for a protective living arrangement or payment for a dependent relative shall make application for supplemental security income and state supplementary assistance at the social security administration district office. The local office of the department of social services shall certify to the social security administration as to the propriety of the living arrangement or the status of the dependent.

50.2(2) Any person applying for payment for custodial care shall make application at the local office of the department of social services on the Application for Medical Assistance or State Supplementary Assistance, PA-1107-0, provided by the department.

770—50.3(249) Approval of application.

50.3(1) Payment for a protective living arrangement or payment for a dependent relative shall be made upon approval for the full month in which application is made, when the applicant is eligible for any part of that month. When eligibility does not exist during the month of application, payment shall be made for the next full month in which eligibility is established.

50.3(2) Payment for custodial care shall be effective as of the date of application or the date of eligibility, whichever is later.

50.3(3) The application for custodial care shall be approved or denied within five working days after the social security administration approves supplemental security income benefits. When supplemental security income benefits will not be received, the application shall be approved or denied within five working days from the date of establishment of blindness, disability, or proof of age.

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CHAPTER 51 ELIGIBILITY

770—51.1(249) Application for other benefits. An applicant or any other individual whose needs are included in determining the state supplementary assistance payment must have applied for or be receiving all other benefits for which such individual may be eligible.

770—51.2(249) Supplementation. Any supplemental payment made from any source shall be considered as income, and such payment shall be used to reduce the state supplementary assistance payment.

770—51.3(249) Eligibility for custodial care.

51.3(1) Licensed facility. Payment for custodial care shall be made only when the facility in which the applicant or recipient is residing is currently licensed by the state department of health pursuant to laws governing health care facilities and the physical plant of a facility complies with the physical plant requirements established by the department of health by rule in chapter 64 of the rules of the department of health.

51.3(2) Physician's statement. Payment for custodial care shall be made only when there is on file an order written by a physician certifying that the applicant or recipient being admitted requires custodial care but does not require nursing services.

51.3(3) Spouse's income. The income of a spouse shall be considered available on a monthly basis to the applicant or recipient after the following monthly deductions.

- a. The amount of the basic supplemental security income standard for one person.
- b. The amount of disregard of income allowed under supplemental security income.
- c. The amount of the supplemental security income standard for a dependent for each dependent living in the home with the spouse.
- d. The amount of established medical needs for the applicant or recipient, spouse, and each dependent which are not otherwise met.
- e. When income is earned, \$65.00 plus one-half of any remaining earned income.

51.3(4) Diversion of income. When the spouse's income is less than the amounts deducted in 51.3(3), income of the recipient above the recipient's personal needs allowance, of \$25.00 per month, shall be diverted to meet the unmet needs of the spouse and dependents as established by 51.3(3), paragraphs "a", "c" and "d".

51.3(5) Resources. When the applicant or recipient in a custodial home has a spouse who continues to reside at home, the applicable resource limitation shall be that established under supplemental security income for a couple living together.

770—51.4(249) Dependent relatives.

51.4(1) Income. Income of a dependent relative shall be less than \$73.00. When the dependent's income is from earnings, an exemption of \$65.00 shall be allowed to cover work expense.

51.4(2) Resources. In addition to the resource limitations set by the supplemental security income program, the resource limitation for a recipient and a spouse shall be \$2,250.00; for a recipient and a dependent other than the spouse shall be \$3,000.00; and for a recipient, spouse and dependent shall be \$3,750.00.

51.4(3) *Living in the home.* A dependent relative shall be eligible until out of the recipient's home for a full calendar month starting at 12:01 a.m. on the first day of the month until 12:00 midnight on the last day of the same month.

770—51.5(249) *Residence.* A recipient of state supplementary assistance shall be living in the state of Iowa.

770—51.6(249) *Lump sum payment.* A nonrecurring lump sum payment shall be treated as a resource.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]

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CHAPTER 52 PAYMENT

770—52.1(249) *Assistance standards.* Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted.

52.1(1) *Protective living arrangement.* The following assistance standards have been established for state supplementary assistance for individuals living in a protective living arrangement:

Boarding home or family life home.

\$207.00 care allowance

34.00 personal allowance

\$241.00 Total

52.1(2) *Dependent relative.* The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative\$251.80

b. Aged or disabled client, eligible spouse, and a dependent relative\$335.80

c. Blind client and a dependent relative\$273.80

d. Blind client, aged or disabled spouse and a dependent relative\$357.80

e. Blind client, blind spouse and a dependent relative\$379.80

52.1(3) *Custodial care.* Payments to a recipient in a custodial home shall be on a cost-related basis. Per diem rates shall be established for each custodial home participating in the program. These rates shall be based on the facility's costs during the most recent six-month accounting period of the facility's established fiscal year. The rate of reimbursement shall be subject to a maximum rate established by the state department of social services.

a. The recipient's available income, except during the month of approval, shall be applied to meet the cost of care before payment is made through the state supplementary assistance program. Income for the month of approval is considered exempt.

b. Payment is made for only the days the recipient is a resident of the facility. Payment shall be made for the date of entry into the facility, but not the date of death or discharge.

c. Payment shall be made in the form of a grant to the recipient on a post payment basis.

d. Eligibility for payment is based on a thirty-one day month. When income is sufficient to pay the cost of care in a month with less than thirty-one days, no state supplementary assistance payment shall be made, but the recipient shall remain eligible for all other benefits of the program.

52.1(4) *Blind.* The standard for a blind recipient not receiving another type of state supplementary assistance is \$22.00 per month.

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CHAPTER 53

[Ch 53, 1973 IDR, renumbered as Ch 7]

Reserved

55.2(5) Training plans shall be based on the length of time and cost of similar plans in the community or in the near locale. The length of training shall be determined by the period it would take a trainee to reach his goal. Payments for dependent children terminate when the child reaches his twentieth birthdate.

55.2(6) The plan may be utilized for a four-year college program leading to a BA or BS degree by qualified applicants in their freshman or sophomore year only when all costs for tuition, books and supplies are being paid by a funding source other than individual education and training plan funds. Payment of tuition, books and supplies shall be available to qualified applicants who are in their junior or senior year.

55.2(7) Plans for post-graduate study shall not be approved.

55.2(8) Special training allowances shall be approved only when no funds are available from other sources for training.

55.2(9) Clients who have not completed a high school education must do so via either GED or adult basic education before a vocational training course may be arranged. GED or high school courses and vocational training programs that run concurrently are acceptable.

55.2(10) No plan shall be approved by the department when tuition rates exceed those of a state university in Iowa.

55.2(11) No plan shall be approved that contains requests for rings, pins, pictures, rental of graduation gowns and other items that may not be necessary to complete training for a vocational goal.

55.2(12) Plans involving study at a college or university, excessive child care costs, or other costs considered excessive shall be submitted to the WIN unit, bureau of family and adult services, for consideration.

55.2(13) No plan shall be approved when the duration of the plan exceeds the known length of time during which the client will remain eligible for categorical assistance.

55.2(14) All individual education and training plans shall be submitted to the local WIN unit, department of social services prior to implementation. All plans beyond two years shall be submitted to the WIN unit, bureau of family and adult services, for approval.

55.2(15) When the worker/supervisor determines that special circumstances exist, exceptions to the above rules may be granted at the discretion of the WIN unit, bureau of family and adult services.

770—55.3(249C) Incentives and disregards. All income earned for work under an education or training program shall be applied to reduce the cost of public assistance paid to the person or his family except that income exemptions allowed in the public assistance programs shall be allowed for these earnings.

770—55.4(249C) Training expenses.

55.4(1) An allowance shall be made for expenses of training. This shall include tuition, books, fees, including graduation, GED testing and certificate fees, and any other fees required for completion of the training, and required uniforms and tools. A work and training allowance of sixty dollars per month shall be provided to a person participating in a full-time training plan. A full-time training plan consists of at least thirty hours per week. A person participating in a part-time training plan shall receive an allowance for transportation at a rate of fifteen cents per mile to and from the training site with a maximum of forty-five dollars per month. No allowance shall be made for any item that is being paid for through earnings that are diverted for that purpose.

55.4(2) Individual education and training plan may pay child care assistance for an unmarried mother returning to high school, living in her parent's home and ineligible for aid to dependent children but has a child receiving aid to dependent children when there is no one in the home to provide care.

770—55.5(249C) Supportive service. The county and area caseworkers shall provide supporting and follow-up services to participants in a work or training program, including

family planning, budgeting, child care, medical services, employability planning, job placement and other services involved in completing the training plan or finding a job.

770—55.6(249C) Public or private training. On-the-job training shall be carried out in conjunction with the local employment service and its rules shall be followed.

55.6(1) If the training includes work experience, nonprofit organizations shall be used exclusively, and the length of this training shall be no longer than twenty-six weeks. When a trainee is in training longer than ten weeks there should be definite possibilities of a job.

55.6(2) Institutional training can be provided by both public and private agencies.

770—55.7(249C) Health and safety. A medical report, not older than six months, completed by a licensed physician shall be contained in the case record prior to approval of training.

55.7(1) The physician should indicate to the best of his knowledge that the person is capable of completing the training or continuing with appropriate employment.

55.7(2) If physical or emotional disabilities are present, these shall be under control prior to enrollment in the training program.

55.7(3) If the work or training is so hazardous that safety glasses, hard hats and so forth are needed, these safety precautions shall be provided.

770—55.8(249C) Payment to client.

55.8(1) Payment of training related expenses shall commence for that month that the client begins training and shall be terminated when the client has completed training. When a client is already involved in training prior to requesting an individual education and training plan, payment of training related expenses shall start for that month that the plan is approved. Such payment may continue for one month after the client completes training if, during the month, the client is actively seeking employment.

55.8(2) The department's responsibility for individual education and training plan financial assistance begins for that month during which the plan is approved.

55.8(3) Retroactive payments shall not be allowed for expenses incurred prior to plan approval. There shall be no reimbursement for training purposes already paid for by the client or other source.

770—55.9(249C) Completion or termination of a plan.

55.9(1) Clients who successfully complete their training plan may keep any books or supplies purchased at the expense of the individual education and training plan program while the client was in training.

55.9(2) Clients who do not complete their training program shall return all books and supplies purchased by the individual education and training program.

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CHAPTER 56 BURIAL BENEFITS

770—56.1(239, 249) Application. An application for burial benefits shall be filed on forms provided by the department at the office of the county department of social services prior to completion of the burial arrangements.

770—56.2(249) Recipients of state supplementary assistance and former recipients of old-age assistance, aid to the blind, and aid to the disabled prior to January 1, 1974.

state department of health shall be consulted. There shall be reasonable protection from all fire hazards. The foster parents shall protect children by storing drugs, household supplies and dangerous tools, weapons and ammunition in places inaccessible to them.

106.4(2) When a private well is the source of water supply, the water must be tested annually and approved for bacteria and pollution count. When the home provides care for children under two years of age, a nitrate analysis must also be obtained.

106.3 Reserved.

106.4(4) Grouping of children in sleeping rooms shall take into consideration the age and sex of children. Children over six years of age shall not share a room with children of the opposite sex. No child one year of age or older shall share the bedroom with either or both of the foster parents, except for temporary periods due to the child's illness or an emergency when close supervision is needed.

106.4(5) Sleeping rooms shall be suitably and comfortably furnished. There shall be good level springs and mattresses and comfortable bedding. Linens shall be changed at least weekly, and more frequently for an enuretic child. Waterproof mattress covers shall be provided for children under three years of age and for any child who is enuretic.

106.4(6) There shall be safe outdoor space, provided according to the age and development of the child, for active play protected against such hazards as traffic, pools, railroads and constructions.

106.4(7) There shall be provisions for isolating a child who is ill, or suspected of having a contagious disease from other children pending medical determination.

106.4(8) Household pets must be inoculated when required by state or local regulations.

106.4(9) The foster home shall provide food with good nutritional content, and in sufficient quantity to meet the needs of children.

770—106.5(237) Personal characteristics of foster parents.

106.5(1) Foster parents shall be stable, responsible, physically able to care for the type of child placed, mature individuals who are not unsuited by reasons of debauchery, habitual use of narcotic drugs, lewd or lascivious behavior, or other conduct likely to be detrimental to the physical or mental health or morals of the child, who shall exercise good judgment in caring for children and who have the capacity to accept agency supervision.

106.5(2) Foster parents shall evidence a genuine concern for and interest in children and an understanding of such children's total needs. They shall have an appreciation of the child's relationship with such child's own family.

106.5(3) The foster family shall have sufficient income and resources to provide adequately for such foster family's own needs.

106.5(4) The foster parents shall respect the child's religious background and affiliation.

770—106.6(237) Health of foster family.

106.6(1) Prior to licensing the foster parents shall furnish the supervising agency with a medical report on each member of the household, including the foster parents, such foster parents' children, other persons residing in the foster home, and other persons assisting in child care.

106.6(2) The medical report shall provide significant findings of the physician, including a tuberculin skin test or a chest X ray when the skin test is positive, and a general statement from the physician as to the presence or absence of any communicable disease or infectious diseases.

106.6(3) Medical re-examinations may be required at the discretion of the physician or the supervising agency.

770—106.7(237) Planned activities and personal effects.

106.7(1) The daily routine shall be such to promote good health, and provide an opportunity for normal activity with time for rest and play. Each child shall be given training in good health habits and shall be adequately clothed.

106.7(2) When a child is excluded from school or cannot benefit from regular school attendance, special schooling shall be sought and, wherever possible, provided for such child. Every child shall be given the opportunity to complete high school or vocational training in accordance with such child's aptitude.

106.7(3) Each child shall be given an opportunity for religious training. Whenever practicable, the child shall be placed with foster parents of such child's own religious faith, or in accordance with the wishes of the natural parents.

106.7(4) Every child shall be given the opportunity to develop healthy social relationships through participation in neighborhood, school, and other community and group activities. The child shall have the opportunity to invite friends to the foster home and to visit the home of friends.

106.7(5) Work assignments shall be in keeping with the total healthy development of the child. Exploitation of the child is prohibited. No child shall be permitted to do any hazardous tasks or to engage in any work which is in violation of the child labor laws of the state. Every child shall have the opportunity to learn to assume some responsibility for such child and for household duties in accordance with such child's age, health and ability. However, assigned tasks shall not inappropriately deprive the child of school, sleep, play or study periods.

106.7(6) Space shall be provided where each child may keep personal belongings.

770—106.8(237) Medical examinations, records, and care of child.

106.8(1) Each child shall have a physical examination by a physician, prior to placement in the foster home, to determine that such child is free from contagious or infectious diseases. When a complete physical examination cannot be given prior to admission, such physical examination shall be given within thirty days after placement and an annual medical review thereafter. When a child is in continuous foster care, a new physical examination shall not be required when the child transfers from one foster family home to another, unless the child is due for the annual examination. Examination shall include a tuberculin skin test or a chest X ray when the skin test is positive.

106.8(2) The foster parents should have knowledge of what immunizations children under care have had and any physical limitations and medical recommendations. The foster parents shall have available, at all times, the name, address, and telephone number of the child's physician, parents or guardian, if applicable, and the supervising agency.

106.8(3) Each child shall be under continuing medical and dental supervision. Foster parents shall keep the supervising agency informed of any health problems. In case of sickness or accident, immediate medical care shall be secured for the child in accordance with the supervising agency's predetermined directions.

106.8(4) Nothing in this rule shall be construed to require medical treatment or immunization for a minor child of any person who is a member of a church or religious organization which is against medical treatment for disease. In such instance, an official statement from the organization and a notarized statement from the parents shall be incorporated in the record.

770—106.9(237) Training and discipline.

106.9(1) Child training and discipline shall be handled with kindness and understanding. No child shall be deprived of a meal as punishment. No child shall be subjected to unusual, unnecessary, severe corporal punishment inflicted in any manner upon the body, or to verbal abuse, threats or derogatory remarks about such child or such child's family.

106.9(2) Reports of mistreatment coming to the attention of the supervising agency shall be investigated promptly and referred to proper authorities when such action is necessary.

770—106.10(237) Emergency care and release of children.

106.10(1) Children under care shall be supervised at all times. In case of emergency, requiring the foster parents' temporary absence from the home, arrangements shall be made with designated, responsible persons for the care of the children during the period of absence.

106.10(2) The foster parents shall not release a foster child to anyone other than the agency, parent or guardian from whom the child was received for care, or a person specifically designated by said agency, parent or guardian.

770—106.11(237) Information about child to be confidential. Information concerning a child, such child's family, and such child's background shall be regarded and handled as confidential by all persons involved in such child's care.

770—106.12(237) Records and reports. Foster families shall maintain the following records of children placed in the home:

106.12(1) A listing in a notebook of:

- a. Child's full name, birthdate, and date of acceptance for care.
- b. Date of discharge.

c. Name and address of the person to whom the child is discharged.

106.12(2) A placement agreement signed by both the child's parents or guardian and the foster parents when the child's parents or guardian have placed the child privately or a placement agreement signed by both the foster parents and agency, when placement is made by an agency.

106.12(3) Medical report completed by a physician at the time of placement and any subsequent medical reports.

106.12(4) When a child is placed by the department of social services, placement agreements and medical reports shall be on forms provided by the department.

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[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

770—110.6(66GA, Ch 144) List of registered homes. The local offices of the department of social services shall maintain a current list of registered family day care homes as a referral service to the community.

770—110.7(66GA, Ch 144) Denials and revocations.

110.7(1) Registration shall be denied or revoked if a hazard to the safety and well-being of a child is found by the department of social services, and the provider cannot or refuses to correct the hazards, even though such hazard may not have been specifically listed under the health and safety rules.

110.7(2) Record shall be kept in an open file of all denials or revocations of registration and the documentation of reasons for denying or revoking the registration.

770—110.8(66GA, Ch 144) Complaints. Record shall be kept in a closed file of all complaints received and there shall be documented resolution of all complaints. Disclosure of information shall require waivers from all parties involved.

[Filed 7/14/76, Notice 1/12/76—published 8/9/76, effective 9/13/76]

CHAPTER 111 FAMILY-LIFE HOMES

770—111.1(249) Definitions.

111.1(1) *Family-life home.* A family-life home is a private household offering a protective social living arrangement for one or two eligible adults who are not able or willing to adequately maintain themselves in an independent living arrangement, but who are essentially capable of physical self care. In such a living arrangement, the family provides the client room, board, laundry, encouragement to share in the interests and activities of the household, and opportunities for participation in the social, cultural, educational, religious, and other activities of the community.

111.1(2) *Private household.* A private household is a dwelling unit occupied exclusively by a family and furnished by and belonging to them by reason of ownership, rental, or by a contract for purchase of life estate.

111.1(3) *Eligible adult.* An eligible adult is a person eighteen years of age or older who meets the eligibility requirements for services or is a recipient of protective services, and who is considering or needs a living arrangement in a family-life home.

111.1(4) *Family.* A family is a person or persons, either related or unrelated to the client, who constitute the members of the household and are related to one another by kinship of blood, marriage, or adoption.

111.1(5) *Not able or willing to adequately maintain themselves in an independent living arrangement.* Not able or willing to adequately maintain themselves in an independent living arrangement means that the person requires some assistance, encouragement, or social stimulation for adequate self-care or to maintain physical or mental health or personal safety.

111.1(6) *Essentially capable of self-care.* Essentially capable of self care means the person is ambulatory or can move from place to place; can manage the activities of daily living including personal hygiene and grooming, toileting, dressing and undressing, feeding, and medicating; and can attend to the care of personal property adequately with minimal support or occasional assistance.

111.1(7) *Encouragement to share in the interests and activities of the household.* Encouragement to share in the interests and activities of the household means that the family members welcome and encourage the person to participate with them in their general family conversations and in their social, recreational, educational, and religious activities; that they invite and encourage use of the general facilities of their home; and they expect the person to care for assigned living quarters and participate within reason in the chores of the household.

770—111.2(249) Application for certification.

111.2(1) The Iowa department of social services shall issue a certificate of approval for the operation of a family-life home upon the recommendation of a local office of the department of social services.

111.2(2) Any person has the right to make application for a family-life home certificate.

111.2(3) Persons wishing to care for adults shall make application to the local office of the department of social services.

111.2(4) When an applicant has reached a decision to operate a family-life home, such applicant shall complete Form SS-1108-0, Application for Certification.

111.2(5) Each applicant shall supply two references which may be contacted by the local office.

770—111.3(249) Provisions pertaining to the certificate.

111.3(1) No family-life home shall be certified to provide a living arrangement for more than two eligible adults.

111.3(2) At least one responsible adult member of the family shall be at the family dwelling or be reasonably available to the client, most of the daytime and nighttime hours, based on the service worker's assessment of the individual's need for supervision.

111.3(3) The certificate shall be effective for one year from date issued subject to continued compliance with rules governing the program.

111.3(4) The certificate shall not be transferred to another person nor be valid for an address other than that shown on the certificate issued.

111.3(5) A current certificate shall be in the possession of the certified family-life home, and be available for inspection.

111.3(6) There shall be no fee nor charge for certificate issued.

111.3(7) A certified family-life home shall not be concurrently licensed as a residential care facility, intermediate care facility, child care center or a foster family home.

770—111.4(249) Physical standards

111.4(1) The family-life home shall be safe, clean, well ventilated, properly lighted and heated. The family's dwelling shall comply with all local health ordinances.

111.4(2) The family's dwelling shall not be a dwelling unit furnished by or belonging to a client.

111.4(3) Sleeping rooms shall be suitably and comfortably furnished.

111.4(4) Each resident shall have a single bedroom unless there is agreement among the family and the residents that a room may be shared.

111.4(5) The family shall provide nutritional food, in sufficient quantity to meet the needs of the client.

770—111.5(249) Personal characteristics of family-life home family.

111.5(1) The adult head of the household shall be a mature, responsible individual who is physically able to maintain a household, and who shall exercise good judgment in caring for adults.

111.5(2) The family shall have an appreciation of and respect for the client's relationship with such client's own relatives, neighbors and friends.

111.5(3) The family shall respect the client's religious background and affiliation.

111.5(4) The family shall have sufficient income and resources to provide adequately for such family's own needs.

770—111.6(249) Health of family.

111.6(1) Prior to certification the family shall furnish the local department of social services with a medical report on each member of the household. Such report shall be on form SS-1718-0, Physician's Report for Family-Life Home Provider.

111.6(2) The medical report shall provide significant findings of a physician, such as the presence or absence of any communicable disease.

111.6(3) Medical re-examinations may be required at the discretion of a physician or the local department of social services.

770—111.7(249) Planned activities and personal effects.

111.7(1) The daily routine shall be such as to promote and provide an opportunity for normal activity with time for rest and recreation compatible with the needs of the client.

111.7(2) Every client shall be encouraged to develop social relationships through participation in neighborhood and other community and group activities.

111.7(3) The family shall not require a client to do general housecleaning, cooking, or child care for such family. A client may voluntarily share in such responsibilities.

111.7(4) Space shall be provided where a client may keep personal belongings.

770—111.8(249) Client eligibility.

111.8(1) The client shall be eighteen years of age or older, as proven by birth or school records, personal records, or by records of the department or another agency.

111.8(2) The client shall be willing to live in a certified family-life home by such client's own declaration or the declaration of a person legally responsible for such client.

111.8(3) The client shall be willing to accept the terms and requirements of the family-life home program.

111.8(4) The client shall be capable of personal physical self-care.

770—111.9(249) Medical examinations, records, and care of a client.

111.9(1) A physician shall certify that the client is free from any communicable disease, and does not require a higher level of care than that provided by a family-life home. Such certification shall be given prior to placement and an annual medical review thereafter. Such certification shall be given on form SS-1719-0, Physicians' Certification for Family-Life Home Resident.

111.9(2) The family shall have available at all times, the name, address and telephone number of the client's physician.

111.9(3) The family shall keep the department informed of any health problems. The family shall immediately notify the department in case of an accident, illness, or emergency that may affect the placement.

770—111.10(249) Placement agreement. The head of the family-life home and the resident shall enter into a placement agreement by signing form SS-1508-0, Placement Agreement Family-Life Home, provided by the department.

770—111.11(249) Legal liabilities. The worker shall advise the family to seek counsel regarding such family's needs for insurance to cover personal injury, property damage, and other legal contingencies.

770—111.12(249) Emergency care and release of client.

111.12(1) In case of an emergency, vacation, or overnight trip, requiring the family's temporary absence from the home, the local department shall be notified and arrangements shall be made with a designated, responsible person, for the care of a client during the period of absence.

111.12(2) The department shall be notified when the client leaves or the client or family expresses a desire for the client to leave the family-life home.

770—111.13(249) Information about client to be confidential. Information concerning a client, such client's family, and such client's background shall be regarded and handled as confidential by all persons involved in such client's care.

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CHAPTERS 112 to 129
Reserved

TITLE XIII
SOCIAL SERVICE RESOURCES

CHAPTER 130
GENERAL PROVISIONS

770—130.1(234) Definitions. *"Family"* shall mean persons related by blood, marriage, or adoption, and residing in the same household. Family members temporarily absent from the household for whom the family claims financial responsibility for tax purposes are considered members of the family. When related individuals, other than spouses, reside together but are not dependent on the other's income, each shall be considered a separate family. An individual living alone or with unrelated persons is considered a one-person family.

770—130.2(234) Application.

130.2(1) Application for social services shall be made at the local office of the department of social services on the form Application for Social Services, SS-1617-0, available at the local office.

130.2(2) The application may be filed by the applicant, the applicant's authorized representative, or where the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.

130.2(3) The date of application is the date the application form is signed and dated.

130.2(4) The application shall be approved or denied within thirty days from the date of application and the applicant notified of the decision. The decision shall be mailed or given to the applicant on the date the determination is made.

130.2(5) Eligibility shall be redetermined at least every six months.

770—130.3(234) Eligibility.

130.3(1) Persons are eligible for services when

a. They are recipients of aid to dependent children, or their needs were taken into account in determining the needs of aid to dependent children recipients, or they are recipients of supplemental security income or state supplementary assistance.

b. The monthly gross income is less than eighty percent of the median income of a family of four in the state of Iowa adjusted for size of family.

130.3(2) To be eligible for services the person must be living in the state of Iowa. Living in the state shall include those persons living in Iowa for a temporary period, other than for the purpose of vacation.

130.3(3) In determining gross income, all income is considered except:

- a. Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian claims commission or the court of claims.
- b. Payments made pursuant to the Alaska Claims Settlement Act to the extent such payments are exempt from taxation under section 21(a) of the Act.
- c. Money received from the sale of property, unless the person was engaged in the business of selling such property.
- d. Withdrawals of bank deposits.
- e. Money borrowed.
- f. Tax refunds.
- g. Gifts.
- h. Lump sum inheritances or insurance payments or settlements.
- i. Capital gains.
- j. The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons.
- k. The value of USDA donated foods.
- l. The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food program for children under the National School Lunch Act, as amended.
- m. Earnings of a child fourteen years of age or under.
- n. Loans and grants obtained and used under conditions that preclude their use for current living expenses.
- o. Any grant or loan to any undergraduate student for educational purposes made or insured under the Higher Education Act.
- p. Home produce utilized for household consumption.

130.3(4) Eligibility shall not be determined for protective services for children or adults or for information or referral services.

130.3(5) Services shall be denied when the client is ineligible to receive services or when the service requested is not available in the district.

770—130.4(234)* Fees. The department may set fees to be charged to clients for services received.

130.4(1) Collection. The provider shall collect fees from clients. The provider shall maintain records of fees collected, and such records shall be available for audit by the department or its representative. When a client does not pay the fee, the provider shall demonstrate that a reasonable effort has been made to collect the fee. Reasonable effort to collect means an original billing and two follow-up notices of nonpayment.

130.4(2) Monthly income. The amount of the fee shall be determined by monthly income according to family size. Monthly income is shown in the following tables.

*Emergency pursuant to section 17A.5(2) "b"(2) of the Code.

a. The units of service are defined as follows:

- (1) Full day is service provided for six or more hours per twenty-four-hour day.
- (2) Half day is service provided for from three to six hours per twenty-four-hour day.
- (3) Hour is service provided for less than three hours in any one twenty-four-hour period. Any part of an hour in excess of twenty minutes is considered a full hour.

b. When more than one child is attending a day care program, the fee for the second child is one-half that of the first child. Each successive child is one-sixth that of the first child. In determining fees, full-day children shall be considered first, half-day children second, and hourly children last.

130.4(4) *Homemaker*. The fees for homemaker services are shown in the following table.

Homemaker		
	Per Hour	Maximum Per Month
A	.00	.00
B	.00	.00
C	.00	.00
D	.00	.00
E	.00	.00
F	1.00	5.00
G	1.25	15.00
H	1.50	25.00

770—130.5(234)* **Termination for nonpayment of fees.** When no payment or partial payment has been received within thirty days following the issuance of the first billing and no circumstances have been found that would cause the payment of fees to be an undue hardship, provision of services shall be terminated.

130.5(1) *Undue hardship*. The worker shall determine when an undue hardship to the client would result by paying the fees. Consideration shall be given to only the following:

- a. Extensive medical bills for which there is neither payment through the medical assistance program, Title XVIII of the Social Security Act, nor other insurance coverage.
- b. Shelter costs in excess of thirty percent of the household income.
- c. Utility costs, not including the cost of a telephone, in excess of fifteen percent of the household income.

d. The family is receiving both homemaker and day care services or day care services for more than one child.

e. Additional expenses for food resulting from diets prescribed by a physician.

130.5(2) *Notification*. The notification of termination of services shall be issued at least thirty days prior to the termination. During such time the client may respond by appealing the decision, making full payment, or providing acceptable evidence of undue hardship for nonpayment or partial payment. When the client does not respond, termination shall take place at the end of the thirty-day period.

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[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

CHAPTER 131
SOCIAL SECURITY ACT—TITLE XX IMPLEMENTED

770—131.1(217,234) Planning process.

131.1(1) The proposed plan for Title XX shall be developed on an annual basis for each fiscal year beginning July 1 and ending June 30, in accordance with federal regulations, Code of Federal Regulations 228 as amended to October 3, 1975. A copy of such regulations may be obtained at no more than the actual cost of reproduction by contacting a district office of the Iowa department of social services.

131.1(2) Advisory committees may be established and selected by district administrator. Persons interested in participating in such advisory committees may contact the district administrator. An advisory committee at the state level may be established. This committee shall consist of two members of each district administrator July 1 of each year.

131.1(3) Public meetings may be arranged by the district administrator within such district administrator's district to assist in preparing the district plan.

770—131.2(217,234) Public involvement and participation.

131.2(1) A description of the proposed plan shall be published in at least one newspaper in each district and the entire plan shall be available for public review and comment for forty-five days beginning April and ending May 15 at a district office of the Iowa department of social services.

131.2(2) Public hearings may be held by the district administrator.

770—131.3(217,234) Final plan. The final plan shall be implemented in each district of the Iowa department of social services by the district administrator July 1 of each year.

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

CHAPTER 139

Reserved

CHAPTER 140

FAMILY PLANNING SERVICES

770—140.1(234) Definitions.

140.1(1) *Delegate agency.* Whenever delegate agency is used in these rules, it shall mean a family planning center which has an administrative and financial relationship with the state department of health.

140.1(2) *Family planning educational services.* Family planning education services are services including group or individual discussions with clients informing them of the various types of birth control methods available and where they may be obtained.

140.1(3) *Clinical care services.* Clinical care services include those services which assist a client in obtaining contraceptive devices and supplies from health practitioner resource persons such as physicians, nurse clinician, health clinic pharmacy or family planning center, in accordance with Iowa law.

770—140.2(234) Eligibility. Those persons eligible for services from the department shall be eligible for family planning services.

770—140.3(234) Choice of provider.

140.3(1) Individuals shall be assured a choice of provider of services.

140.3(2) When the department pays for the services under a purchase of service contract with the health department, the services must be provided by a delegate agency.

770—140.4(234) Direct referrals. All persons who are income maintenance or services clients of the department and any other client requesting information on family planning, shall be offered family planning services and referred to either a private physician or delegate agency.

770—140.5(234) Outside referrals. When a client goes directly to a delegate agency without referral by the department, the delegate agency shall make the preliminary determination of eligibility based on information provided by the client and shall then refer the information back to the department for final determination of eligibility.

770—140.6(234) Family planning liaison worker. The family planning liaison worker in the local offices of the department of social services shall be the primary contact person for clients requesting family planning services and shall have final responsibility for determining eligibility of clients requesting family planning services.

770—140.7(234) Need. In determining the need for family planning services, the family planning liaison worker shall take the following factors into consideration.

140.7(1) Family limitation, as when parents regard their current family as complete and want no more children.

140.7(2) Child-spacing, when parents seek a longer interval between the births of their children.

140.7(3) A mother's inability to cope with several small children.

140.7(4) A marital conflict which may be at least partially related to the earlier birth of unwanted children.

140.7(5) The presence in the home of a seriously handicapped child or adult with an emotional problem, which requires special, time-consuming and emotionally and physically draining supervision by the mother.

140.7(6) The mother's desire to seek employment outside the home.

140.7(7) Adolescent sexual activity as a social indication of the need for family planning services.

140.7(8) The possibility or the presence of neglect or abuse as an indication of the presence of an unwanted child in the home.

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[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

CHAPTER 141

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CHAPTER 142

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

770—142.1(238) Compact agreement. As a member of the interstate compact on placement of children, the department of social services shall co-operate on interstate aspects of placements preliminary to possible adoptions, placements in foster care where no adoption is contemplated, placements with any parent or relative, and institutional placements of adjudicated children in need of assistance needing special services or programs not available within the state. Any public or private agency instrumental in placement of a child in Iowa or from Iowa and in such public or private agency's custody shall go through the interstate compact on placement of children.

770—142.2(238) Compact administrator.

142.2(1) The compact administrator may appoint up to three deputy compact administrators to serve as active members of the association of the interstate compact on the placement of children and who shall be responsible for day to day operation of the interstate compact.

142.2(2) The compact administrator shall be responsible for the administration of the compact between such compact administrator's state and other contracting states.

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]

CHAPTER 143

INTERSTATE COMPACT ON JUVENILES

770—143.1(231) Compact agreement. As a member of the interstate compact on juveniles, Iowa is in a contractual agreement with the other 49 states, the District of Columbia, Puerto Rico and Guam, in which the department of social services shall cooperate on interstate aspects of juvenile delinquency, and the return from one state to another of non-delinquent children who have run away from home.

770—143.2(231) Compact administrator.

143.2(1) The compact administrator may appoint up to three deputy compact administrators to serve as active members of the association of juvenile compact administrators and who shall be responsible for day to day operation of the interstate compact.

143.2(2) The compact administrator shall be responsible for the administration of the compact between such compact administrator's state and other contracting states.

770—143.3(231) Sending a juvenile out of Iowa under the compact.

143.3(1) Local officials requesting to transfer a juvenile to another state shall work through the office of the interstate compact administrator. All persons using the compact shall comply with the official rule and regulations promulgated by the compact administrator under authority of the compact.

143.3(2) Interstate Compact Form IA, Application for Compact Services; and Form Interstate Compact Form VI, Memorandum of Understanding and Waiver shall be signed by the juvenile and parents or guardian.

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The department in carrying out its assigned responsibilities utilizes many internal procedures which do not substantially affect the public. Many of these procedures may have some affect or be of interest to limited segments of the public and are available for review. The "Department of Transportation Policies and Procedures" manuals contain these internal procedures and are located in various DOT offices throughout the state.

01 DEPARTMENT GENERAL DIVISION

ARTICLE A ORGANIZATION CHAPTER 1

ORGANIZATION AND RESPONSIBILITIES OF THE DEPARTMENT OF TRANSPORTATION

820—[01,A]1.1(307) Introduction. In order to assure adequate, safe, and efficient transportation facilities and services which will promote the general welfare, economic

growth, job mobility, convenience, stability, and well-being of the citizens of Iowa, the sixty-fifth general assembly created the state department of transportation. The department is responsible for planning, development, regulations and improvement of transportation and as of July 1, 1975, assumed the duties and responsibilities formerly administered by the state highway commission; the Iowa aeronautics commission; the Iowa reciprocity board; the department of public safety relating to motor vehicle registration, motor vehicle dealer licensing, motor vehicle inspection, and operators and chauffeurs licensing; and the Iowa state commerce commission relating to the regulation of railroads and motor transportation. Certain duties and responsibilities relating to river transportation and public transit shall also be assumed by the department.

To most efficiently and economically administer these duties, the department is organized into ten divisions under a chief administrative officer—the director of transportation. The statutory head of the agency is the seven member transportation commission to which the director of transportation is responsible.

820—[01,A]1.2(307) Address. General inquiries, requests, or petitions may be addressed to the Department of Transportation, 826 Lincoln Way, Ames, Iowa 50010, or to the Department of Transportation, State Capitol Building, Des Moines, Iowa 50319. Inquiries may also be made or requests submitted through district offices located in Ames, Mason City, Sioux City, Atlantic, Fairfield, and Cedar Rapids. Specific inquiries should be addressed in care of the appropriate division or office of the department having responsibility in the area of concern as indicated in this chapter or as indicated in a rule of the department concerning that specific subject.

820—[01,A]1.3(307) Telephone. The department of transportation phone number in Ames is 515-296-1101; in Des Moines it is 515-281-5258. In many cases, calls received on the departmental lines can be transferred directly to a specific office having responsibility in the area of concern. District office numbers are as follows: Ames—515-296-1556, Mason City—515-423-7584, Sioux City—712-276-1451, Atlantic—712-243-3355, Fairfield—515-472-4171, and Cedar Rapids—319-364-0235.

820—[01,A]1.4(307) Personal contact. Business hours of the department are 7:45 a.m. to 4:30 p.m. at Ames offices, and 8:00 a.m. to 4:30 p.m. in Des Moines, Monday through Friday, excluding legal holidays established by the state executive council. During these hours, personal assistance on matters of concern can be obtained, although inquiries should be directed initially to a receptionist or secretary for referral to the appropriate office or employee.

820—[01,A]1.5(307) Forms and applications. Forms and applications requiring use by the public in dealings with the department are available through the offices administering the applicable function as indicated in this chapter and may be available at other locations as specified in administrative rules governing the use of particular forms or applications.

820—[01,A]1.6(307) Organizational structure and responsibilities. To most efficiently carry out its assigned duties and responsibilities, the department is organized into broad functional areas ("divisions") as indicated in this rule. These areas may be further organized into units of more specific responsibility termed "offices"; organizational entities within offices are termed "sections". Various offices of broadly similar functions within the highway division are grouped into intermediate organizational entities termed "bureaus".

1.6(1) Transportation commission. The commission is the statutory head of the department; its duties, organization, and operating procedures are broadly stated in chapters 307 and 307A of the Code. In addition (or supplemental) to its statutory duties, the commission shall approve policy, operational standards, and programs establishing the

12.3(3) Method of immediate reporting. During normal working hours the immediate report shall be filed with the division by means of the telephone or telegraph service. During other than normal working hours the report shall be filed via telegraphic service.

These rules are intended to implement chapter 474 of the Code.

[Filed July 1, 1975]

11 RIVER TRANSPORTATION DIVISION
Reserved

12 TRANSPORTATION REGULATION BOARD

ARTICLE A
ORGANIZATION

CHAPTER 1
ORGANIZATION AND OPERATION OF THE TRANSPORTATION
REGULATION BOARD

820—[12,A]1.1(17A,307) Purpose. This chapter describes the organization and operation of the Transportation Regulation Board (hereinafter referred to as the board) including the location of offices where, and the means by which, any interested person may obtain information and make submittals or requests.

820—[12,A]1.2(17A,307) Scope of rules. These rules promulgated under chapters 17A and 307, shall apply to all matters before the board. No rule shall in any manner relieve a common carrier or any person under the jurisdiction of the board from any duties under the laws of this state.

820—[12,A]1.3(17A,307) Waiver. The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of conflicts. Consistent with this purpose, the application of any of these rules, unless otherwise provided by law, may be waived by the board to prevent undue hardship to any party to a proceeding.

820—[12,A]1.4(17A,307) Duties of the board. The board regulates common carriers, excluding pipelines; the termination, discontinuance or establishment of motor vehicle of

franchises; and participates in proceedings before other tribunals pertaining to illegal actions of common carriers, excluding pipelines. Specific responsibilities are set forth below.

1.4(1) *Rate regulation of common carriers.* The board fixes and approves rates, fares and charges of common carriers regulated by chapters 325, 327, 327A and 479.

1.4(2) *Certificate of public convenience and necessity.* The board issues certificates of public convenience and necessity pursuant to chapters 325 and 327A. The board conducts hearings regarding the transfer of certificates pursuant to these same chapters.

1.4(3) *Railroad rates and service.* The board fixes and approves rates, fares and charges of railroads and conducts safety and service permission hearings with respect to railroads regulated by chapters 474 to 486.

1.4(4) *Motor vehicle franchises.* In accordance with chapter 322A, the board conducts hearings on complaints or applications to terminate or discontinue existing motor vehicle franchises and the establishment of additional motor vehicle franchises.

1.4(5) *Investigations.* The board may institute investigations of the legality and reasonableness of all rates, charges, tariffs, rules, regulations, policies and practices of all common carriers, excluding pipelines, and other persons under this jurisdiction whether engaged in interstate or intrastate commerce.

1.4(6) *Rules.* The board adopts, amends or repeals such rules as may be necessary to transact its business pursuant to chapter 17A.

820—[12,A]1.5(17A,307) Organization. The board consists of the three-member board, board counsel and the rate analysis section.

1.5(1) *The board.* The three-member board is responsible for all activities of the agency. Each member is appointed by the governor, for a six-year term with the approval of the senate.

1.5(2) *The rate analysis section.* This section is responsible for the administrative and technical work with respect to the regulation of rates, fares and charges of common carriers within the jurisdiction of the board. The rate analysis office advises the board on matters of accounting, rates, and services of regulated common carriers.

1.5(3) *The board counsel.*

a. *Persons under the jurisdiction of the board.* The board counsel acts as attorney for the board and is responsible for the investigation of the legality of all rates, charges, rules, regulations and practices of all common carriers and persons under the jurisdiction of the board, and institutes civil proceedings before the board or any court to correct any illegality on the part of any common carrier and prosecutes the same to final determination.

b. *Persons operating in interstate commerce.* The board counsel investigates the reasonableness of rates, tariffs, charges, rules, regulations and practices of common carriers in interstate transportation when directed by the board, or when in his judgment they are unlawful, prejudicial or discriminate against any city, community, business, industry or citizen of the state, and institutes proceedings before the Interstate Commerce Commission or any other tribunal having jurisdiction and prosecutes to final determination any proceeding growing out of such matters.

c. *Review of laws.* The board counsel reviews the legality, continuity of existing laws, proposed legislation and administrative rules regulating common carriers, excluding pipelines, and other persons insofar as such matters relate to the powers and duties of the board.

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ARTICLE B
PROCEEDINGS BEFORE THE BOARD

CHAPTER 1
RULES APPLICABLE TO ALL PROCEEDINGS

820—[12,B]1.1(17A,307) Documents.

1.1(1) Size and general requirements. Documents filed with the board shall be printed, typewritten, or otherwise mechanically reproduced on one side of the paper, double spaced, except that long quotations may be single spaced and indented. All papers, except exhibits, shall be cut or folded so as not to exceed 8½ inches by 14 inches in size with inside margins not less than one inch in width. Papers such as complaints, petitions, written motions, notices, and applications shall contain:

a. The name and address of the party filing the paper and, if represented by an attorney or practitioner, the name and business address of such attorney or practitioner.

b. The caption: "STATE OF IOWA, IOWA DEPARTMENT OF TRANSPORTATION, TRANSPORTATION REGULATION BOARD," and docket number, if any, assigned to the proceeding. Except as otherwise provided in these rules, an original and five copies of all papers and exhibits shall be filed with the board. The person filing the paper or exhibit shall also furnish additional copies to each respondent or party.

1.1(2) Service requirements. Except as otherwise provided in these rules every pleading, document or paper, when filed with the board must include a certificate showing simultaneous service thereof upon all parties to the proceeding. Such service shall be made by delivery in person, or by first class mail properly addressed with charges prepaid, one copy to each party. Service on the parties shall be effected by the same means of communication that is employed in making service to the board.

a. When any party is represented by an attorney or practitioner, service on the attorney or practitioner will be deemed service on the party;

b. The date of service shall be the day when the paper served is deposited in the mail in accordance with subrule 1.1(2) or is delivered in person;

820—[12,B]1.2(17A,307) Time for filing responses. Unless otherwise provided in these rules or by discretion of the board an adverse party may file a response to any pleading or filing permitted under these rules within twenty days after such filing is made with the board.

820—[12,B]1.3(17A,307) Requests for modification of time. Requests for extensions or modifications of time must be served on all parties of record at the same time and by the same method of communication as service is made on the board. A request for postponement of date for filing briefs or other documents must be filed not less than ten days before the date in question, except in extraordinary circumstances, and where such requests are filed less than ten days before the due date, the petitioning party shall state the reasons for his failure to make such request within the prescribed time. The original only of the request and certificate of service need be filed with the board.

820—[12,B]1.4(17A,307) Practitioners qualifications and requirements. The following persons shall be permitted to practice before the board:

1.4(1) Attorneys at law. Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia may represent others before the board.

1.4(2) Persons not attorneys. Any person not an attorney at law who is a citizen or resident of the United States who has never been suspended or disbarred as an attorney or whose right to practice has never been revoked by any court, commission or administrative agency in any jurisdiction and who shall satisfy the board that he is possessed of the

necessary legal and technical qualifications as to enable him to render valuable legal service before the board, and that he is otherwise competent to advise and assist in the presentation of matters before the board may represent others before the board.

1.4(3) *Appearances.* Practitioners who meet the requirements set forth in either subrules 1.4(1) or 1.4(2) of this rule shall state that they are authorized to represent the particular party in whose behalf they propose to act at the time of making an initial appearance in any proceeding. This requirement will be met by the practitioner entering his name as the representative in the appropriate space on an initial application or by signing any complaint, petition, protest, reply or other pleading with a designation following the practitioner's signature that he is the attorney or other representative of a party therein named.

1.4(4) *Ethical conduct.* All practitioners appearing in proceedings before the board shall conform to the standard of ethical conduct required of attorneys before the courts of Iowa. If any practitioner does not conform to such standards, the board may decline to permit such person to appear in any proceeding.

820—[12,B]1.5(17A,307) Definitions.

1.5(1) *Proceedings.* The term "proceeding" shall include:

a. An informal or formal complaint alleging violation of any provision of the Code of Iowa of which the board has jurisdiction, or of any rule or requirement made pursuant to such provision;

b. An application for the granting of any right, privilege, authority or relief from any provision of the Code of Iowa of which the board has jurisdiction, or of any rule or requirement pursuant to a power granted by such provision or the consideration of any submission required by law to be made to the board;

c. An investigation instituted or requested to be instituted by the board;

d. A petition for declaratory ruling concerning the applicability of any statutory provision, rule, or other written statement of law or policy, decision, or order of the board;

e. A petition or any order of the board on its own motion for the adoption, amendment or repeal of a rule.

1.5(2) *Parties.* The term "complainant" means person filing a complaint; "defendent" means a carrier or other person against whom a complaint is filed; "applicant" means a person filing an application; "respondent" means a person subject to in an investigation; "protestant" means a person opposed to the granting of an application or to any tariff or schedule becoming effective; "intervenor" means a person permitted to intervene in accordance with the rules of the board and "petitioner" means any other person seeking relief otherwise than by complaint or application.

1.5(3) *Pleadings.* The term "pleading" means a complaint, answer, reply, application, protest, motion (other than motion orally made at hearing or argument), petition or document supplementing oral hearing.

1.5(4) *Practitioner.* The term "practitioner" means a person authorized by the board to appear before it in a representative capacity.

1.5(5) *Officer.* The term "officer" includes a board member or an administrative hearing officer before whom a proceeding is assigned for hearing.

1.5(6) *Proposed decision.* A proposed decision is issued when a quorum of the board did not preside at the reception of evidence in a contested case and means an officer's written statement of issues, facts, the findings, and the reasons for such findings and order of the presiding officer or, if a presiding officer is unavailable, a written statement of another person qualified to be an officer who has read the record. A proposed decision becomes the final decision within twenty days if an appeal is not taken to the board and the board does not undertake to review the proposed decision on its own motion.

1.5(7) *Final decision.* A final decision is issued when a quorum of the board presided at the reception of evidence in a contested case. A proposed decision becomes the final decision when an appeal has not been taken and the board has not undertaken to review the proposed decision on its own motion within twenty days of such proposed decision. The

final decision is the board's written statement of issues, facts, the findings and the reasons for such findings and order.

1.5(8) *Contested case*. The term "contested case" means a proceeding in which legal rights, duties or privileges of a party are required by constitution or statute to be determined by the board after an opportunity for evidentiary hearing.

1.5(9) *Transcript*. The term "transcript" means a written statement of all proceedings at oral hearing.

820—[12,B]1.6(17A,307) Prohibited communications. In the event a prohibited communication, as described in section 17A.17 is made, the recipient thereof shall submit the communication, if written, or a summary of the communication, if oral, for inclusion in the record of the proceeding.

820—[01,B]1.7(17A,307) Maintenance of records.

1.7(1) *Docketing of pleadings and motions*. When an application, complaint, petition or other pleading is submitted to the board, it shall be file stamped, assigned a docket number and a file established. The case shall be entered on an index card showing its name and docket number. Index cards shall be kept in alphabetical order by case name. All initial and subsequent filings, notices, motions, pleadings, briefs, decisions and orders shall be filed stamped with the dates on which they are received. The original of such filings shall be retained in the case file. Case files shall be assigned docket numbers according to subject. The two numbers immediately following the letters refer to the year filed. The last three digits of the docket number shall be numbered consecutively, e.g., 100,101. After January 1, 1976, consecutive numbering shall begin at "1" rather than "100." Docket numbers by subject matter are as follows:

a. Docket number R-D-75-100 is assigned to a rate proceeding pertaining to damages or reparations.

b. Docket number R-S-75-100 is assigned to a rate proceeding pertaining to special permission orders.

c. Docket number R-I-75-100 is assigned to a rate proceeding pertaining to increases.

d. Docket number RR-AS-75-100 is assigned to a railroad agency service proceeding on the discontinuance, or rearrangement of service, the abandonment of depots, and the retirement and removal of a depot.

e. Docket number RR-TS-75-100 is assigned to a proceeding on the reduction in train service or approval of speed ordinances.

f. Docket number RR-HC-75-100 is assigned to a proceeding on highway railroad grade crossing signal warning devices.

g. Docket number RR-ED-75-100 is assigned to railroad eminent domain proceedings.

h. Docket number RR-CL-75-100 is assigned to a proceeding on railroad clearances.

i. Docket number RR-O-75-100 is assigned to a proceeding on other railroad matters.

j. Docket number MV-A-75-100 is assigned to a motor carrier application for new or additional operating authority.

k. Docket number MV-T-75-100 is assigned to a motor carrier application for transfer of operating authority.

l. Docket number MV-I-75-100 is assigned to investigations, complaints, and show cause proceedings, pertaining to motor carriers, truck operators, contract carriers and passenger carriers.

m. Docket number MV-R-75-100 is assigned to a proceeding on reciprocity matters.

n. Docket number MV-FR-75-100 is assigned to a proceeding on applications or complaints pertaining to the discontinuance, termination or the establishment of a motor vehicle franchise.

o. Docket number MV-O-75-100 is assigned to proceedings on other motor vehicle matters.

p. Docket number RM-75-100 is assigned to rule making proceedings.

q. Docket number DR-75-100 is assigned to proceedings for declaratory rulings.

1.7(2) *Retention of settlement agreements and records.* If there is a settlement of the matter prior to the hearing, the settlement agreement shall be retained in the file. The case file shall include the record as defined by chapter 17A in contested case proceedings. The case file shall be retained for at least five years from the date of the final agency decision.

1.7(3) *Release of file.* The file when released to a presiding officer shall be the responsibility of that presiding officer while it is in the presiding officer's possession.

1.7(4) *Agency statements of general application or precedential value not otherwise filed or exempt.* Unless otherwise filed and docketed with the board in accordance with this rule or exempt from public inspection under the Iowa Administrative Procedure Act, a written statement of law or policy or interpretations formulated, adopted or used by the board in the discharge of its functions shall be indexed by subject and made available for public inspection. Written statements of particular applicability with cognizable precedential value shall be indexed by subject and made available for public inspection.

820—[12,B]1.8(17A,307) Communications.

1.8(1) *How addressed and filed.* All communications to the board shall be addressed to the Transportation Regulation Board, Valley Bank Building, 300 Fourth Street, Des Moines, Iowa 50319, unless otherwise specifically directed. All communications should clearly designate the docket number, if any, and short title. The person communicating shall state his address, the party he represents and how response should be sent to him if not by first class mail. Pleadings and other papers required to be filed with the board shall be filed within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt at the office of the board.

1.8(2) *Disposition of papers and pleadings when defective.* When, upon inspection, the board is of the opinion that a pleading, document or paper tendered for filing does not comply with this chapter, or if it be an application, does not sufficiently set forth required material or is otherwise insufficient, the board may decline to accept the pleading, document or paper for filing and may return it unfiled, or the board may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

1.8(3) *Objectionable matter.* The board may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading, document, or paper filed with it.

820—[12,B]1.9(17A,307) Office hours. Office hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with State law.

820—[12,B]1.10(17A,307) Public information. Any interested person may examine the board's decisions, orders, rules, opinions and other statements of law or policy issued or used by the board in the discharge of its function. These documents may be examined at the offices of the board during regular business hours. Unless otherwise provided by law, all information contained therein shall be made available for public inspection.

820—[12,B]1.11(17A,307) Sessions of the board. The board shall be considered in session at the office of the board in Des Moines, Iowa, during regular business hours. When a quorum of the board is present, it shall be considered a session for considering and acting upon any business of the board. A majority of the board constitutes a quorum for the transaction of business.

820—[12,B]1.12(17A,307) Use of gender and number. Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words of one gender may include the other gender.

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CHAPTER 2
FORMS

820—[12,B]2.1(17A,307) Forms. These rules shall govern all forms prescribed by the Transportation Regulation Board (hereinafter referred to as the board) for use in all proceedings before the board, provided, however, that the board may prescribe additional or different forms to be utilized in a specific case as necessary.

820—[12,B]2.2(17A,307) Specific forms.

2.2(1) *Petition for rule making.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

IN RE: (insert present board rule number
and short title, if any, or short title of
subject for proposed new rule)

DOCKET NO. _____
(completed by board)

PETITION FOR RULE MAKING

COMES NOW (insert name of petitioner) and for (his, its) petition states: (The petition shall then set forth in separately numbered paragraphs:

1. The text of any proposed rule or amendment, identifying the section or sections of the law or rule involved, or the rule sought to be repealed.
2. The reasons for requesting the action, including any relevant facts, views, data, or arguments.
3. A concise statement of the petitioner's interest in the subject matter.)

WHEREFORE, (insert petitioner's name) prays that the board institute a rule making proceeding to (adopt, amend, or repeal) (insert board rule number or the proposed rule) as hereinbefore set forth.

Respectfully submitted,

(Signature of petitioner)

2.2(2) *Statement of position.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert title of proceeding as set forth in board order commencing rule making)	{	DOCKET NO. (insert docket no., if known)
		STATEMENT OF POSITION

COMES NOW, (insert names of persons filing statement) and for (his, its) statement of position submits:

(The statement shall then set forth in an organized manner any data, views, or arguments relevant to the adoption, amendment, or repeal of the rule.)

Respectfully submitted,

(signature)

2.2(3) *Counter-statement of position.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert title of proceeding as set forth in board order commencing rule making)	{	DOCKET NO. (insert docket no., if known)
		COUNTER-STATEMENT OF POSITION

COMES NOW, (insert name of person filing counter-statement) and for (his, its) response to the statement of position of (insert name of person filing statement of position) states:

(The statement shall then set forth in an organized manner a response to any data, views, or arguments put forth in the statement of position.)

Respectfully submitted,

(signature of party)

2.2(4) Request for rule making hearing.

**STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION**

(insert title of proceeding as set forth in
board order commencing rule making)

DOCKET NO. (insert docket no.,
if known)

REQUEST FOR RULE MAKING
HEARING

COMES NOW (insert name(s) of persons or the organization or agency requesting hearing) and for (his, its, their) request for hearing state(s):

(The request shall then set forth in separately numbered paragraphs:

1. The facts which show the person, persons, organization or agency is/are authorized to request a hearing on rule making in accordance with §17A.4, the Code 19(insert year).
2. The reasons for requesting a hearing.
3. A concise statement of the party's interest in the subject matter (if the party is not the administrative rules review committee.)

WHEREFORE, (insert party's name) requests the board to schedule a rule making hearing in this proceeding.

Respectfully submitted,

(signature of party)

2.2(5) *Request for rule making statement.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert title of proceeding as set forth in
board order commencing rule making)

DOCKET NO. (insert docket no.,
if known)

REQUEST FOR STATEMENT

COMES NOW (insert name of person requesting statement) and for (his, its) request
states:

(The request shall then set forth in separately numbered paragraphs:

1. A concise statement that on (insert date) the board issued an order (adopting,
amending or repealing) (insert rule number).

2. A concise statement of the party's interest in the subject matter.)

WHEREFORE, (insert party's name) requests the board to issue a formal statement in
support of its decision pursuant to §17A.4(1)(b), the Code 19(insert year).

Respectfully submitted,

(signature of party)

2.2(6) *Petition for declaratory ruling.*

**STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION**

IN RE: THE PETITION OF (insert
petitioner's name)
FOR A DECLARATORY RULING ON
(insert rule number, statute for which
interpretation sought, etc.)

DOCKET NO. _____
(completed by board)

PETITION FOR DECLARATORY
RULING

COMES NOW (insert name of petitioner) and requests a declaratory ruling on (state rule number, statute, order, decision, or other written statement of law or policy for which an interpretation is sought), and in support of (his, its) petition states:

(The petition shall then set forth in separately numbered paragraphs:

1. A statement of the rule, statute, order or decision upon which a declaratory ruling is sought.
2. A clear, concise, and complete statement of all relevant facts.
3. A clear, concise statement of the question presented in the controversy or of the uncertainty.
4. A clear, concise statement of the interpretation or application, if any, or the rule, statute or decision which the petitioner urges based upon the facts as set forth.)

WHEREFORE, (insert petitioner's name) prays that the board issue a declaratory ruling on (insert proposed subject of ruling) as hereinbefore set forth.

Respectfully submitted,

(signature of petitioner)

2.2(7) *Complaint.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert name of complainant),

Complainant,

v.

(insert name of defendant)

Defendant.

DOCKET NO. _____
(completed by board)

COMPLAINT

COMES NOW (insert name of complainant) and for (his, its) complaint states: (The complaint shall then set forth in separately numbered paragraphs:

1. The name and address of the party against whom the complaint is made.
2. A clear, concise, and complete statement of the facts forming the basis for the conclusion that the defendant has violated a specific statute administered by the board, a specific rule of the board, a tariff of the respondent, or order issued by the board.)

WHEREFORE, (insert complainant's name) prays (insert specific relief sought).

Respectfully submitted,

(signature of the complainant)

2.2(8) Answer.

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert name of complainant),

Complainant,

v.

(insert name of defendant),

Defendant.

DOCKET NO. _____
(insert docket number)

ANSWER

COMES NOW (insert name of defendant) and for (his, its) answer to the complaint filed by (insert complainant's name) states:

(The answer shall then set forth in separately numbered paragraphs:

1. Clear, concise statements which admit, deny or otherwise answer all material allegations of the complaint and which set forth the affirmative grounds relied upon to support such answer.

2. The statements, insofar as possible, should respond directly to the separately numbered paragraphs of the complaint.)

WHEREFORE, (insert defendant's name) prays (insert prayer for dismissal of complaint or other relief sought.)

Respectfully submitted,

(signature of defendant)

2.2(9) *Cross-complaint.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert name of complainant),

Complainant,

v.

(insert name of defendant),

Defendant.

DOCKET NO. _____
(insert docket number)

CROSS-COMPLAINT

COMES NOW (insert name of defendant) and for (his, its) cross-complaint states: (The cross-complaint shall then be set forth in separately numbered paragraphs:

1. The name and address of the party against whom the cross-complaint is made.
2. A clear, concise and complete statement of the facts forming the basis for the conclusion that the complainant has violated a specific statute administered by the board, a special rule of the board, a tariff of the complainant, or order issued by the board.)

WHEREFORE, (insert defendant's name) prays (insert specific relief sought.)

Respectfully submitted,

(signature of the defendant)

2.2(10) *Petition for intervention.*

**STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION**

(insert case title)

DOCKET NO. _____
(insert docket number)

PETITION FOR INTERVENTION

COMES NOW (insert name of petitioner) and for (his, its) petition states: (The petition shall then set forth in separately numbered paragraphs:

1. A clear and concise statement of facts specifying the nature of the petitioner's alleged interest.

2. Specific and detailed admissions or denials of each material allegation of fact or law asserted in the proceeding, citing, where appropriate, the statutory provisions or authority relied on. The admissions or denials should give a clear and concise statement of the position of the petitioner so as to appraise the parties and the board of the specific issues of law or fact to be raised or controverted.)

WHEREFORE, (insert petitioner's name) prays for leave to intervene and be treated as a party to the proceeding (if affirmative relief is sought, include specific prayer for such relief, which may be in the alternative).

Respectfully submitted,

(signature of petitioner)

2.2(11) *Response to petition for intervention.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert case title)

}

DOCKET NO. _____
(insert docket number)

(Resistance, response) TO PETITION
FOR INTERVENTION

COMES NOW, (insert name of person filing resistance or response) and in (response, resistance) to the Petition of Intervention filed by (insert petitioner's name) states:

(The response should then set forth in separately numbered paragraphs:

1. Objections if any, supported by specific reasons, to granting the petitioner the right of intervention.
2. A request, if any, supported by specific reasons, to limit the right of intervention to particular issues or to a particular stage of the proceeding.
3. Insofar as possible, a direct response to the specific issues of law or fact raised in the petition for intervention.)

WHEREFORE, (insert name of person filing response) prays (insert specific relief sought.)

Respectfully submitted,

(signature)

2.2(12) *Petition to reopen hearing.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert case title)

DOCKET NO. _____
(insert docket number)

PETITION TO REOPEN HEARING

COMES NOW (insert name of petitioner) and in support of (his, its) petition to reopen the record for the purpose of taking additional evidence:

(The petition shall then set forth in separately numbered paragraphs:

A clear and concise statement of the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or law alleged to have occurred since the conclusion of the hearing.)

WHEREFORE, (insert name of petitioner) prays that the board reopen said hearing.

Respectfully submitted,

(signature of petitioner)

2.2(13) *Application for rehearing.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert case title)

DOCKET NO. _____
(insert docket number)

APPLICATION FOR REHEARING

COMES NOW, (insert name of applicant) and for (his, its) application for rehearing states:

(The applicant shall then set forth in separately numbered paragraphs:

1. A concise statement of the grounds relied upon for requesting a rehearing, specifically alleging errors in the board decision or order, including findings of fact or conclusions of law.

2. If, in requesting a rehearing, the petitioner relies upon new facts or circumstances which have arisen subsequent to the hearing, decision, or order, or upon consequences resulting from compliance therewith, such matters shall be specifically set forth. A clear and concise statement of why such matters justify a reconsideration of the case must be given.)

WHEREFORE, (insert name of applicant) prays that the board grant a rehearing on the issues specified above.

Respectfully submitted,

(signature of applicant)

2.2(14) *Motion.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert case title)



DOCKET NO. _____
(insert docket number)

MOTION FOR (insert subject matter of motion)

COMES NOW, (insert name of moving party) and moves the board to (insert specific relief sought) and in support of (his, its) motion states:

(The motion shall then set forth in separately numbered paragraphs the grounds relied on in making the motion, including specific statutory or other authority.)

WHEREFORE, (insert name of moving party) prays the board to (insert specific relief or order sought.)

Respectfully submitted,

(signature)

2.2(15) *Written appearance.*

STATE OF IOWA
BEFORE THE TRANSPORTATION REGULATION BOARD
IOWA DEPARTMENT OF TRANSPORTATION

(insert case title)



DOCKET NO. _____
(insert docket number)

APPEARANCE

COMES NOW (insert name of person filing appearance) and enters (his, its) appearance on behalf of (insert name of person on behalf on whom the appearance is filed) in this matter.

Respectfully submitted,

(signature)

2.2(16) *Affidavits as to verified statement.*

STATE OF IOWA

POLK COUNTY

ss:

The undersigned, being first duly sworn, depose and say that I am the (insert title of company officer) of (insert name of common carrier or person), Petitioner herein, and have read the foregoing Petition filed on behalf of (insert name), and that the facts stated herein are true, as I verily believe.

(Signature of officer of company)

Subscribed in my presence and sworn to before me by the said (insert name of officer) this _____ day of _____, 19____.

NOTARY PUBLIC

2.2(17) *Certificate of service.*

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of the Rules of the Transportation Regulation Board.

Dated at _____ this _____ day of _____, 19____.

By _____
(signature)

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CHAPTER 3 RULE MAKING

820—[12,B]3.1(17A,307) Purpose and scope. These rules shall govern the practice and procedure in all rule making proceedings of the Transportation Regulation Board (hereinafter referred to as the board).

820—[12,B]3.2(17A,307) Petition for adoption of rules.

3.2(1) *Petitioner.* Any interested party may petition the board for the adoption, amendment, or repeal of a rule.

3.2(2) *Form of petition.* A petition for rule making shall substantially comply with the form and content prescribed by the board.

820—[12,B]3.3(17A,307) Commencement of proceedings.

3.3(1) *Commenced by order.* Rule making proceedings shall be commenced only upon written order of the board. The board may commence a rule making proceeding by order upon its own motion or upon the filing of a petition for rule making by any interested person.

3.3(2) *Board action on petition.* Within thirty days after the filing of a petition for rule making, the board shall either commence by written order a rule making proceeding or deny the petition by written order on the merits, stating the reasons therefor.

3.3(3) *Notice of rule making.* Upon the commencement by written order of a rule making proceeding, the board shall, if required by law, cause the required notice of said proceeding to be published in the "Iowa Administrative Code."

820—[12,B]3.4(17A,307) Written statements of position.

3.4(1) *Persons.* Any interested person may file a written statement of position containing data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of a rule.

3.4(2) *Filing.* Written statements of position shall be filed with the board not later than thirty calendar days after the publication of the notice of rule making, if any, in the "Iowa Administrative Code." If the publication of a notice of rule making is not required by law, written statements of position may be filed as authorized by the board.

3.4(3) *Form of written statement of position.* A written statement of position shall substantially comply with the form prescribed by the board.

3.4(4) *Service.* Written statements of position shall be served upon the petitioner, and all known interested persons, if any, at the time of filing.

820—[12,B]3.5(17A,307) Counter-statements of position.

3.5(1) *Petitioner.* The petitioner, if any, may file a counter-statement of position with the board in response to written statements of position.

3.5(2) *Filing.* Counter-statements of position, if any, shall be filed with the board not later than fifteen calendar days after the petitioner's receipt of the written statement of position to which the petitioner is responding.

3.5(3) *Form of counter-statements of position.* A counter-statement of position shall substantially comply with the form prescribed in the board rules.

3.5(4) *Service.* Counter-statements of position shall be served by the petitioner at the time of filing upon the authors of written statements of position to which the petitioner is responding.

820—[12,B]3.6(17A,307) Requests for hearing.

3.6(1) *Filing.* Requests for hearing shall be filed not later than thirty calendar days after the publication of the notice of rule making, if any, in the "Iowa Administrative Code."

3.6(2) *Form of requests for hearing.* A request for hearing shall substantially comply with the form prescribed by the board.

3.6(3) Action on proper petition. Within fifteen calendar days of the filing of a request for hearing, the board shall determine if said request is in accordance with section 17A.4 of the Code of Iowa. If the board determines that the request complies with section 17A.4 of the Code of Iowa, it shall by written order schedule a hearing on the rule making and shall cause a notice of said hearing to be published in a newspaper of general circulation in this state once each week for two consecutive weeks. The notice shall state the date, time and place of said hearing and shall briefly describe the subject matter of the rule-making proceeding. The hearing on the rule making shall be not less than ten calendar days after the last publication of said notice. The board shall serve a similar notice on the petitioner, if any.

3.6(4) Action on improper petition. If the board determines that a request for hearing does not comply with section 17A.4 of the Code of Iowa, it may by written order deny such request stating the reasons therefor, or it may, in its discretion, grant the request and schedule a hearing in accordance with the procedures herein prescribed.

3.6(5) Action on own motion. The board may, on its own motion, schedule a hearing on the rule making in accordance with the procedures herein prescribed.

820—[12,B]3.7(17A,474) Rule-making hearings.

3.7(1) Written appearance. Upon the filing of a written appearance, any interested person may participate in rule-making hearings in person or by counsel. A written appearance shall be filed not less than five calendar days prior to said hearing. The board may, in its discretion, waive the filing of a written appearance as a condition precedent to participation in said hearing. The board staff shall not be required to file a written appearance.

3.7(2) Form of written appearance. A written appearance shall substantially comply with the form prescribed by the board.

3.7(3) Oral presentations. Participants in rule-making hearings may present oral statements of position which may include data, views, comments, or arguments concerning the proposed adoption, amendment or repeal of the rule. Participants shall not be required to take an oath and shall not be subject to cross-examination, provided however, that the board may, in its discretion, permit the questioning of participants by any interested person and provided further, that no participant shall be required to answer any question.

3.7(4) Rebuttal and limitations. The board may, in its discretion, permit rebuttal statements of position and request the filing of written statements of position subsequent to the adjournment of the rule-making hearing. The board may limit the time of any oral presentation and the length of any written presentation.

820—[12,B]3.8(17A,307) Rule-making decisions.

3.8(1) Adoption, amendment or repeal. The board shall by written order adopt, amend, or repeal the rule pursuant to the rule-making proceeding, or dismiss the proceeding in accordance with section 17A.4 of the Code of Iowa. The board may, by order, specify the effective date of the adoption, amendment, or repeal of the rule.

3.8(2) Statements. Upon the adoption, amendment, or repeal of a rule, and if timely written request is filed by any interested person, the board shall issue a formal written statement of the principal reasons for and against the adoption, amendment, or repeal of the rule, including the reasons why the board overruled the positions in opposition to the board's decision. A request for statement shall substantially comply with the form prescribed by the board.

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**CHAPTER 4
DECLARATORY RULINGS**

820—[12,B]4.1(17A,307) Purpose and scope. These rules shall govern the practice and procedure in all declaratory ruling proceedings of the Transportation Regulation Board (hereinafter referred to as the board).

820—[12,B]4.2(17A,307) Declaratory rulings—general. On petition by any interested person, the board may issue a declaratory ruling with respect to the applicability of any statutory provision, rule, or other written statement of law or policy, decision, or order of the agency. The board will not issue declaratory rulings in relation to matters in litigation in a contested case or court proceeding.

820—[12,B]4.3(17A,307) Petition for declaratory ruling.

4.3(1) *Persons and amendments.* Any interested person may file a petition for declaratory ruling with the board. The board may require or allow the petitioner to amend the petition once so as to provide for greater specificity in the statement of facts; question presented; or rule, statute, or order in question.

4.3(2) *Form of petition.* A petition for declaratory ruling shall substantially comply with the form prescribed in board subrule 2.2(6).

4.3(3) *Date of filing petition.* For purposes of section 17.19(1) of the Code of Iowa, a petition for declaratory ruling shall be deemed filed upon the actual filing of the original petition with the board or upon the actual filing of an amended petition, if any, whichever is later.

820—[12,B]4.4(17A,307) Briefs and other supporting communications.

4.4(1) *Petitioner.* The petitioner may file with the board a brief, memorandum, or other material in support of his position on the question presented for the declaratory ruling. Briefs, memoranda, or other materials, if any, shall be filed with the board at the time the petition is filed. The petitioner shall also serve a copy of said brief, memorandum or other material, if any, on the Transportation Regulation Board counsel at the time the petition is filed.

4.4(2) *Transportation Regulation Board counsel.* In response to any brief, memorandum, or other material filed by the petitioner, the Transportation Regulation Board counsel may file a reply brief, memorandum, or other material not later than fifteen calendar days after the filing of the petition. The Transportation Regulation Board counsel shall also serve a copy of said reply brief, memorandum, or other material, if any, on the petitioner at the time such material is filed.

820—[12,B]4.5(17A,307) Other communications prohibited. Except for those documents permitted to be filed as hereinbefore set forth, no other communication shall be filed with the board concerning a petition for declaratory ruling. No hearing shall be required in considering the disposition of a petition for declaratory ruling.

820—[12,B]4.6(17A,307) Action by the board. The board shall issue a declaratory ruling or dismiss the petition within thirty days of the filing. The ruling of dismissal shall state the reasons for the decision. The board may dismiss the petition without ruling on the merits if the petition does not state facts showing that the petitioner is or will be aggrieved or adversely affected by the application of the rule, statute, or order in question.

820—[12,B]4.7(17A,307) Effect of decision. A declaratory ruling shall have the same status as an order or decision in a contested case, and shall be considered final for purposes of judicial review.

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CHAPTER 5 RULES OF PROCEDURE

820—[12,B]5.1(17A,307) Informal settlement. Pursuant to sections 17A.10 and 17A.12 of the Code, a controversy may, unless precluded by statute, be informally settled by mutual agreement of the board, in matters over which it has jurisdiction, and the person who is or is about to be engaged in the controversy with the board. The settlement shall be effected

by a written statement reciting the subject of the controversy and the proposed solution mutually agreed upon by the parties including a statement of the action to be taken, or to be refrained from, by each of the parties. The informal settlement shall constitute a waiver by all parties of the formalities to which they are entitled under the terms of the administrative procedure Act, contained in chapter 17A, with respect to the specific fact situation which is the subject of the controversy.

At any time before or after a controversy is formally identified any party may initiate a proposal for informal settlement of the controversy by communicating a desire to do so, to the other party and to the board.

820—[12,B]5.2(17A,307) Initiation of proceedings. Contested case proceedings may be initiated by the board or its counsel as required by statute or the constitution in order to determine the legal rights, duties, or privileges of a party which are at issue.

820—[12,B]5.3(17A,307) Informal complaints.

5.3(1) Form and content. Informal complaints may be by letter or other writing and filed as of the date of its receipt. Informal complaints should identify the party making the complaint, the party or parties complained against, the situation or set of facts which prompted the complaint and the relief sought.

5.3(2) Correspondence handling. If the informal complaint appears to be susceptible to informal settlement, a copy or a statement of the substance thereof will be transmitted by the board to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the filing of a formal complaint.

5.3(3) Discontinuance without prejudice. Submission of an informal complaint is without prejudice to complainant's right to file and prosecute a formal complaint.

820—[12,B]5.4(17A,307) Formal complaints.

5.4(1) Form. Formal complaints shall be filed with the board in the form prescribed by the board.

5.4(2) Two or more causes of action. Two or more grounds of complaint concerning the same principle, subject, or state of facts may be included in one complaint, but should separately be stated and numbered.

5.4(3) Docketing. A docket number shall be assigned by the board. The parties shall be notified of the number. All future filings shall use the assigned docket number.

5.4(4) Joinder. Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and concern substantially the same alleged violations of the law and a like set of facts.

5.4(5) Specifications. Complaints shall specify the specific set of facts, situations or conditions which are the subject of the complaint and if applicable shall state the violation(s) of law which is (are) alleged to have taken place.

5.4(6) Board action. Within thirty days of receipt of a formal complaint the board shall initiate proceedings or shall inform the complainant that such action is considered unwarranted, or not significantly affecting the public interest, or that the controversy has been settled without benefit of an evidentiary hearing. The board on its own motion may extend the time provided to sixty days following receipt, by so informing the complainant prior to thirty days following receipt.

5.4(7) Tariff or schedule references. The several rates, fares, charges, schedules, classifications, regulations, or practices on which complaint is made shall be set out by specific reference to the tariffs or schedules in which they appear, whenever that is practicable.

5.4(8) Prayers for relief. A formal complaint in which relief is sought shall contain a detailed statement of the relief desired. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint shall not be broader than those to which complainant's evidence is to be directed at the hearing.

5.4(9) Amended formal complaints. An amended complaint may be tendered for filing stating a cause of action alleged to have accrued subsequent to the date of filing the initial complaint.

5.4(10) Answers and cross complaints to formal complaints.

a. Generally. An answer may simultaneously be responsive to a formal complaint and to any amendment thereof. It must be drawn so as fully and completely to advise the parties and the board of the nature of the defense and must admit or deny specifically and in detail each material allegation of the pleading answered. An answer may embrace a detailed statement of any counterproposal which a defendant may desire to submit. Unless the issue is such that separate answers are required, answer for all defendants may be filed on their behalf by one defendant in one document, in which event the answer must show clearly the names of all defendants joining therein, and their concurrence.

b. Time for filing. Unless otherwise directed by the board, an answer to a complaint shall be filed within twenty days after the date the complaint was served.

c. When issue joined. If any defendant answers or fails to file and serve answer within the period specified in paragraph "b", issue hereby is joined as to such defendant.

820—[12,B]5.5(17A,307) Motions to dismiss or to make more definite and certain.

5.5(1) As to complaint. Defendant may file with his answer a motion that the allegations in the complaint be made more definite and certain, such motion to point out the defects complained of and details desired. Defendant may also file with his answer a motion to dismiss a complaint because of lack of legal sufficiency appearing on face of such complaint.

5.5(2) As to answer. No reply to the answer shall be filed, but any party may file, within ten days after the filing of an answer, a motion that the answer be made more definite and certain, such motion to point out the defects complained of and the details desired.

820—[12,B]5.6(17A,307) Applications.

5.6(1) Forms and instructions. An application filed with the board shall be prepared in accord with and contain the information called for in the form of application, if any, prescribed by the board, or any instructions which may have been issued by the board with respect to the filing of an application.

5.6(2) Service of carriers. Copies of an application shall be furnished in such number, and be filed and served in the manner and upon the persons specified in the form or instruction.

820—[12,B]5.7(17A,307) Protests against applications.

5.7(1) Content. A protest against the granting of any application shall set forth specifically the grounds upon which it is made and contain a concise statement of the interest of protestant in the proceeding.

5.7(2) When filed. Any protest shall be filed with the board promptly after the application is filed. If the proceeding be one respecting which the board has issued a notice advising the public of the filing of the application, the protest shall be filed within the time specified in such notice. Failure to file a protest shall not prejudice subsequent participation in the proceeding.

5.7(3) Copies and service. A protest filed under this section shall be served upon applicant and, unless otherwise specified in the public notice, the original and five copies of the protest shall be filed with the board.

5.7(4) When rule disregarded. An application may be set for hearing without awaiting the filing of a protest.

820—[12,B]5.8(17A,307) Petitions for suspension of tariffs or schedules.

5.8(1) Content. The protested tariff or schedule sought to be suspended shall be identified by making reference to the name of the publishing carrier, freight forwarder, or

agent, the number, and to the specific items or particular provisions protested. The protest should state the grounds in support thereof, indicate in what respect the protested tariff or schedule is considered to be unlawful, and state what protestant offers by way of substitution. Such protests will be considered as addressed to the discretion of the board and no protest shall include a prayer that it also be considered a formal complaint. Should a protestant desire to proceed further against a tariff or schedule which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition may be filed.

5.8(2) *When filed.* Protests against, and requests for suspension of, tariffs or schedules filed will not be considered unless made in writing and filed with the board. Such protests and requests for suspension must reach the board at least seven days before the effective dates of the tariffs, schedules, or parts thereof to which they refer, unless the protested publications were filed on less than thirty days notice, under the authority of this board, in which event the protests must be filed before such effective dates. In an emergency, telegraphic or telephonic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with subrule 5.8(1) and copies thereof are immediately telegraphed by protestants to the respondent carriers or their publishing agents.

5.8(3) *Service of copies.* Each protest or reply filed under this rule must be filed with the board and one copy of the protest simultaneously be served upon the publishing carrier and upon other persons known by protestant to be interested.

5.8(4) *Reply to protest.* A reply to a protest filed under this section must be filed and served promptly.

820—[12,B]5.9(17A,307) Investigations.

5.9(1) *Investigation on board's motion.* The board may at any time, on its own motion investigate and inquire into the legality of all rates, charges, tariffs, rules and practices of persons under jurisdiction of the board and common carriers operating in interstate and intrastate commerce. Subpoenas to require the attendance and testimony of witnesses, the production of books, papers, tariff schedules, contracts, agreements and documents may be issued by the board. Subpoenaed materials may be inspected by the board. Any officer, director, agent or employee of a common carrier or person under investigation may be examined under oath by the board.

5.9(2) *Information obtained by employees.* The board may also, through its own employees, experts or otherwise obtain such information as it may consider necessary or desirable in any investigation.

5.9(3) *Failure to comply.* An order instituting an investigation will be served by the board upon respondents. If within a time period stated in that order a respondent fails to comply with any requirement specified therein respondent shall be deemed in default and to have waived any further hearing. Thereafter the investigation may be decided without further proceedings.

820—[12,B]5.10(17A,307) Initiation of modified procedure.

5.10(1) *Board's initiative or by request.* Modified procedure may be ordered in a proceeding upon the board's initiative or upon its approval of a request filed by any party

5.10(2) *Order directing modified procedure.* An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified-procedure rules. As used in rules 5.13(17A,307), 5.16(17A,307) and 5.17(17A,307) the term "complainant" shall comprehend the term "respondent" or "applicant," and the term "defendant" shall include the term "protestant."

820—[12,B]5.11(17A,307) Effect of order directing modified procedure.

5.11(1) *Relief from answer.* Issuance of an order directing modified procedure shall relieve defendant from the obligation of answering.

5.11(2) *Default where failure to comply.* If within any time period provided in the modified-procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

820—[12,B]5.12(17A,307) *Intervention in modified procedure.* Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

820—[12,B]5.13(17A,307) *Common interest of parties.* Parties having common interests shall arrange for joint preparation of pleadings filed under modified procedure.

820—[12,B]5.14(17A,307) *Content of pleadings in modified procedure.*

5.14(1) *Generally.* A statement filed under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies. If no answer has been filed defendant's statement must admit or deny specifically and in detail each material allegation of the complaint. In addition defendant's statement and complainant's statement in reply shall specify those statements of fact and arguments of the opposite party to which exception is taken, and include a statement of the facts and arguments in support of such exception. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

5.14(2) *Exhibit identification.* An exhibit which is part of any pleading filed under modified procedure must serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Complainant (Defendant)..., Exhibit No...., Witness..."

5.14(3) *Damages.* If an award of damages is sought, the paid freight bills or properly certified copies thereof should accompany the original of the complainant's statement when there are not more than ten shipments but otherwise the documents should be retained.

820—[12,B]5.15(17A,307) *Verification in modified procedure.* The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons must be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

820—[12,B]5.16(17A,307) *Filing and service of statements in modified procedure.*

5.16(1) *Service on parties.* Within twenty days from the date of an order requiring modified procedure, complainant must serve upon the other parties a statement of all the evidence upon which it relies. Within twenty days thereafter defendant must serve its statement. Within twenty days thereafter complainant must serve its statement in reply. No further reply may be made by any party except by permission of the board.

5.16(2) *Copies of pleadings.* The original and five copies of any statement shall be filed with the board.

820—[12,B]5.17(17A,307) *Request for hearing.*

5.17(1) *Request for cross-examination or other hearing.* If cross-examination of any witness is desired, the name of the witness and the subject matter of the desired cross-examination shall, together with any other request for oral hearing, including the basis therefor, be stated at the end of the defendant's statement or complainant's statement in reply as the case may be. Unless material facts are in dispute, oral hearing will not be held for the sole purpose of cross-examination.

5.17(2) *Hearing issues limited.* The order setting the proceeding for oral hearing, if

hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

820—[12,B]5.18(17A,307) Procedure subsequent to modified procedure. Procedure subsequent to that provided in the modified-procedure rules shall be the same as that in proceedings not handled under modified procedure.

820—[12,B]5.19(17A,307) Notice of hearing.

5.19(1) Assignment, service and posting of notice. In those proceedings in which a hearing is to be held, the board shall, by order or otherwise, assign a time and place for hearing. Notice of such hearing will be posted in the office of the board and will be served upon the parties and such other persons as may be entitled to receive notice. Service of notice as provided in section 17A.12 shall constitute commencement of contested case proceedings.

5.19(2) Content of notice. The contents of such notice shall be in reasonable compliance with section 17A.12. The notice shall identify all the parties to the proceeding, state their interest in the controversy and include the statement and references required by subsection 17A.12(2).

5.19(3) Requests for changes in assignment. Requests for postponements of date of hearing may be granted only for good and sufficient cause.

5.19(4) Service of notice of assignment change. The board may confine the service of notice of a change of time or place assigned for hearing to only those who have indicated to the board a desire to be notified.

820—[12,B]5.20(17A,307) Subpoena.

5.20(1) Requests. Unless directed by the board upon its own motion, a subpoena to compel a witness to produce documentary evidence will be issued only upon petition showing general relevance and reasonable scope of the evidence sought, which petition must also specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby; provided, however, that for good cause shown, in lieu of a petition, the request for such a subpoena may be made orally upon the record to the board at the hearing. A request for issuance of subpoena other than to compel the production of documentary evidence may be made either by letter (original only need be filed with the board) or orally upon the record to the board at the hearing. A showing of general relevance and reasonable scope of evidence sought may be required and the subpoena will be issued or denied accordingly.

5.20(2) Issuance. A subpoena may be issued by the board at the hearing.

5.20(3) Service. The subpoena shall be delivered either by personal service as in civil actions or by certified mail return receipt requested.

5.20(4) Witness fees. A witness who is summoned and responds thereto is entitled to the same fee as is paid for like service in the courts of the state of Iowa. Such fee is to be paid by the party at whose instance the testimony is taken at the time the subpoena is served, except that when the subpoena is issued on behalf of an officer or agency thereof fees and mileage need not be tendered at the time of service.

820—[12,B]5.21(17A,307) Discovery. In accordance with the Iowa Rules of Civil Procedure parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding. The board may issue orders to give effect to the exercise of discovery.

820—[12,B]5.22(17A,307) Prehearing conferences.

5.22(1) Purposes. Upon written notice by the board in any proceeding, parties or their attorneys may be directed to appear at a specified time and place for a conference, prior to or during the course of a hearing, or in lieu of personally appearing to submit suggestions in writing, for the purpose of formulating issues and considering:

- a. The simplification of issues;
- b. The necessity or desirability of amending the pleadings either for the purpose of clarification, amplification, or limitation;
- c. The possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record, such as annual report and the like, to the end of avoiding the unnecessary introduction of proof;
- d. The procedure at the hearing;
- e. The limitation of the number of witnesses;
- f. The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and
- g. Such other matters, including disposition of requests for discovery, as may aid in the simplification of the evidence and disposition of the proceeding.

5.22(2) *Facts disclosed privileged.* Facts disclosed in the course of the prehearing conference are privileged and, except by agreement, shall not be used against participating parties either before the board or elsewhere unless fully substantiated by other evidence.

5.22(3) *Recordation and order.* Action taken at the conference, including a recitation of the amendments allowed to the pleadings, the agreements made by the parties as to any of the matters considered and defining the issues, shall be recorded in an appropriate order, unless the parties enter upon a written stipulation as to such matters, or agree to a statement thereof made on the record.

5.22(4) *Objection to the order and subsequent proceedings.* If an order is entered, a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements reached at such conference. Thereafter the terms of the said order or modification thereof, the written stipulation or statement, shall determine the subsequent course of proceedings.

820—[12,B]5.23(17A,307) *Stipulations.* Apart from the pre-hearing provisions the parties may, by stipulation, agree upon any pertinent facts in the proceeding.

820—[12,B]5.24(17A,307) *Authority of board.* The board may grant leave to amend or to file any pleadings, or to intervene, upon request tendered at the hearing. The board shall not decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding. The board shall regulate the procedure in any hearing before it and take all measures necessary or proper for the efficient performance of the duties assigned the board, including the disposition of requests for discovery.

820—[12,B]5.25(17A,307) *Appearances at hearing.*

5.25(1) *Who may appear.* Any individual may appear for himself and any member of a partnership which is a party to any proceeding may appear for such partnership upon adequate identification. A bona fide officer or full-time employee of a corporation, association, or of an individual may appear for such corporation, association, or individual upon proper written authorization and by permission of the board at the hearing. A party also may be represented by a practitioner.

5.25(2) *General and special appearances.* An appearance may be either general, that is, without reservation, or it may be special, that is, confined to a particular issue or question. When a practitioner enters an appearance at a hearing he will be expected to represent his client faithfully until the completion of the proceeding in which he has been retained, or until the completion of the part of the proceeding for which he has specially appeared. A practitioner who has entered his appearance at the hearing shall not be permitted to withdraw from the hearing, or willfully absent himself therefrom, except for good cause and, wherever practicable, only with the permission of the board. If a person desires to appear specially, he must expressly so state when he enters his appearance and at that time he shall also state the questions or issues to which he is confining his appearance; otherwise, his appearance will be considered as general.

5.25(3) *Standards of conduct.* Contemptuous conduct by any person appearing at a hearing shall be ground for his exclusion by the board from the hearing.

5.25(4) *Absence from hearing.* If a party or his representative shall, after entering an appearance, attempt to withdraw from the hearing in a manner other than that specified in subrule 5.25(2) of this rule, the board on its own motion, or on motion of any party to the proceeding, may take action as, in the interest of justice and the protection of the lawful rights of all parties to the proceeding, the circumstances of the case may warrant, including the striking out of all or any part of any pleading of the offending party, and including the possible dismissal of the action or proceeding, or any part thereof, or the entry of an order of default against that party.

820—[12,B]5.26(17A,307) *Petition to intervene.*

5.26(1) *Content generally.* A petition for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. If the proceeding be by formal complaint and affirmative relief is sought by petitioner, the petition should conform to the requirements for a formal complaint.

5.26(2) *When filed.* A petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after except for good cause shown.

5.26(3) *Broadening issues.* If the petitioner seeks a broadening of the issues and shows that they would not thereby be unduly broadened, and in respect thereof seeks affirmative relief, the petition should be filed in sufficient time to permit service upon and answer by the parties in advance of the hearing.

5.26(4) *Copies and replies in opposition.* When tendered at the hearing, sufficient copies of a petition for leave to intervene must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing, one additional copy must be furnished for the use of the board. When a petition for leave to intervene is not tendered at the hearing, the original and five copies of the petition shall be submitted to the board together with a certificate that service has been made by petitioner. Any reply in opposition to a petition for leave to intervene not tendered at the hearing must be filed within twenty days after service. In the discretion of the board, leave to intervene may be granted or denied before the expiration of the time allowed for replies.

5.26(5) *Disposition.* Leave will not be granted except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave is granted the petitioner thereby becomes an intervenor and a party to the proceeding.

820—[12,B]5.27(17A,307) *Participation without intervention.* An appearance may be entered at the hearing without filing a petition in intervention or other pleading, if no affirmative relief is sought, if there is full disclosure of the identity of the person or persons in whose behalf the appearance is to be entered, if the interest of such person in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the issues already presented and any right to broaden them unduly is disclaimed. A person in whose behalf an appearance is entered in this manner becomes a party to the proceeding.

820—[12,B]5.28(17A,307) *Evidence.*

5.28(1) *Admissibility.* The rules of evidence shall be applied in any proceeding pursuant to section 17A.14 of the Code.

5.28(2) *Rules of privilege.* The rules of privilege recognized by law are applicable to proceedings before the board.

5.28(3) *Product of discovery as evidence.* Information obtained through discovery may be introduced into evidence if it is otherwise admissible.

5.28(4) *Production of evidence.* The rules of evidence shall be applied in any proceeding

to the end that needful and proper evidence shall be conveniently, inexpensively, and speedily produced, while preserving the substantial rights of the parties.

5.28(5) *Witness examination.* Witnesses will be orally examined under oath before the board unless their testimony is taken by deposition or under modified procedure. In formal-complaint, application, and investigation proceedings complainant, applicant, and respondent respectively, shall open and close at the hearing, except at further hearings granted on petition the petitioner requesting further hearing shall open and close; and except, further, that parties other than the respondent shall open and close in investigations in which the burden of proof is not upon the respondent. Intervenors shall follow the party in whose behalf the intervention is made. The foregoing order of presentation may be varied by the board, who also shall designate the order of presentation in any other type of proceeding, of any other party to any proceeding, or of parties to several proceedings being heard upon a consolidated record.

5.28(6) *Cumulative restriction on production of evidence.* It shall be the duty of the board before whom any proceeding is being heard to limit the number of witnesses whose testimony may be merely cumulative. And in order to enforce this section, the board may require a clear statement on the record of the nature of the testimony to be offered.

5.28(7) *Prepared statements.* With approval of the board, a witness may read into the record, as his testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel, or a prepared statement of a witness who is present at the hearing may be received as an exhibit, provided that the statement shall not include argument; that before any such statement is read, or admitted in evidence the witness shall deliver to the board, the reporter, and to opposing counsel as may be directed by the board, a copy of such statement or of such interrogatories and his written answers thereto; and that the admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced in the usual manner, including the right of cross-examination of the witness. Such approval ordinarily will be denied when in the opinion of the board the memory or demeanor of the witness may be of importance.

5.28(8) *Documents containing matter not material.* When material and relevant matter offered in evidence is in a document containing other matter not material or relevant, the offering party shall produce the document at the hearing, shall plainly designate the matter so offered, and shall accord to the board and to participating counsel an opportunity to inspect it. Unless it is desired to read such matter into the record and the board so directs, true copies in proper form of the material and relevant matter taken from the document may be received as an exhibit, but other parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant. The document itself will not be received.

5.28(9) *Documents in board's files.*

a. In general. If any matter contained in a report or other document not a tariff or schedule, open to public inspection in the files of the board is offered in evidence such report or other document need not be produced, but in other respects the provisions of subrule 5.28(8) of this rule shall apply.

b. Tariffs and schedules and official notice in investigation proceedings. If any matter contained in a tariff or schedule on file with the board is offered in evidence, such tariff or schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff or schedule.

5.28(10) *Records in other proceedings.* If any portion of the record before the board in any proceeding other than the one on hearing is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless:

a. The party offering the same agrees to supply such copy later at his own expense, if and when required by the board; and

b. The portion is specified with particularity in such manner as to be readily identified; and

c. The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to paragraphs "a" and "b" of this subrule; and

d. The board directs such incorporation. Any such portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

5.28(11) When documents, such as freight bills or bills of lading, are numerous, the board may refuse to receive in evidence other than a limited number of such documents said to be typical. The board may require the party in orderly fashion to abstract the relevant data from the documents, affording other parties reasonable opportunity to examine both the documents and the abstract, and thereupon offer such abstract in evidence in exhibit form.

5.28(12) *Exhibits.* Exhibits should have a maximum width of 22 inches by 12½ inches in height. The sheets of each exhibit and the lines of each sheet should be numbered. If the exhibit consists of five or more sheets the first sheet or title page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained therein. The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered by the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Whenever practicable, especially in proceedings in which it is likely that many documents will be offered, all the documents produced by a single witness should be assembled and bound together, suitably arranged and indexed, so that they may be identified and offered as one exhibit. Exhibits should not be argumentative and should be limited to statement of fact, and be relevant and material to issues, which can better be shown in that form than by oral testimony.

a. *Reference to tariff authority, routes and distances.* All exhibits showing rates, fares, charges, or other tariff or schedule provisions must, by appropriate number of reference, indicate the tariff or schedule authority therefor, and if distances are shown must also show the authority therefor and, by lines, highways, or waterways, and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff or schedule lawfully on file with the board, or definitely ascertainable from a tariff or schedule on file with the board.

b. *Copies.* Unless the board shall otherwise direct, the original and five copies of each exhibit of a documentary character shall be furnished for the use of the board. A reasonable number of copies shall be furnished to counsel in attendance at the hearing.

c. *Exchange prior to hearing.* Whenever practicable, the parties should exchange copies of exhibits or other pertinent material or matter before or at the commencement of the hearing and the board may so direct.

d. *When excluded how treated.* In case an exhibit has been identified, objected to and excluded, the board will develop whether the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn it shall be incorporated in the record. Exhibit numbers once used for identification will not be duplicated thereafter.

5.28(13) *Evidence adduced after hearing.*

a. *Call for further evidence.* At any state of the hearing or after the close of testimony, but prior to the issuance of a final decision, the board, on its own motion or upon petition of a party, after due notice, may reopen the proceeding for further evidence upon any issue and require such evidence to be presented by the party or parties concerned or by the board's staff.

b. *Service of petitions seeking reopening of hearing.* Copies of a petition to reopen hearing shall be served on all parties or their attorneys of record. Within ten days after the service of any such petition, any other party to the proceeding may file his response to the petition with the board.

c. Filing subsequent to hearing. Except as provided in this rule the board will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with any proceeding after close of the hearing, and may return any such document to the sender. Before the close of a hearing the board may, at the request of a party or upon its own motion, or upon agreement of the parties, require that a party furnish additional documentary evidence supplementary to the existing record, within a stated period of time.

820—[12,B]5.29(17A,307) Preservation of objections.

5.29(1) Formal exceptions unnecessary. Formal exception to a ruling of the board at a hearing is unnecessary. It is sufficient that a party, at the time the ruling is made, make known to the board the action which he desires the board to take or his objection to the action of the board and his grounds therefor.

5.29(2) Reserved.

820—[12,B]5.30(17A,307) Transcript of record.

5.30(1) Filing. After the close of the hearing the complete transcript of testimony taken and the exhibits shall be filed with the board.

5.30(2) Corrections. A suggested correction in a transcript ordinarily will be considered only if offered not later than twenty days after the date such transcript is filed with the board. A copy of the letter (original only need be filed with the board) requesting the suggested corrections shall be served upon all parties of record and with two copies to the official reporter.

5.30(3) No free copies. No free copies of transcript will be furnished to any party to any proceeding.

820—[12,B]5.31(17A,307) Content and arrangement of briefs.

5.31(1) Due date. The due date of each brief must appear on its front cover or title page.

5.31(2) Table of contents. A brief of more than twenty pages shall contain a table of contents and points made with page references, the table of contents to be supplemented by a list of citations, alphabetically arranged, with references to the pages where they appear.

5.31(3) Sketch or chart. In proceedings wherein misrouting or undue prejudice or preference are alleged, the complainant should include as part of the brief a small sketch or chart adequately reflecting the situation.

5.31(4) Evidence abstract. A brief filed after a hearing should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record, if written, or exhibit where the evidence appears. The abstract should follow the statement of the case and precede the argument. In the event the party elects not to include a separate abstract in his brief, he should give specific reference to the portions of the record, whether transcript or otherwise relied upon in support of the respective statements of fact made throughout the brief.

5.31(5) Requested findings. Each brief should include such requests for specific findings, separately stated and numbered, as the party desires the board to make.

5.31(6) Exhibit reproduction. Exhibits should not be reproduced in the brief, but may, if desired, be shown, within reasonable limits, in an appendix to the brief.

820—[12,B]5.32(17A,307) Time for filing briefs.

5.32(1) Before proposed decision. In a proceeding which has been the subject of oral hearing, only one brief shall be filed by each party. The board shall fix for all parties the same time within which to file briefs. Reply briefs are not permitted unless ordered by the board.

5.32(2) Briefs of intervenors. Briefs of intervenors shall be filed and served within the time fixed for the brief of the party in whose behalf the intervention is made.

820—[12,B]5.33(17A,307) Decisions. The content and procedures of decisions in contested cases shall be according to the provisions of section 17A.16.

820—[12,B]5.34(17A,307) Compliance with board orders. When in consequence of proceedings the board has by order directed a defendant or a respondent to do or desist from doing a particular thing, such defendant or respondent must notify the board on or before the date upon which such order becomes effective whether or not compliance has been made therewith. If a change in rates or schedules is required the notification must be given in addition to the filing of proper tariffs or schedules, and must specify the numbers of the tariffs or schedules so filed.

820—[12,B]5.35(17A,307) Application for rehearing.

5.35(1) Specificity of relief. An application for rehearing of a final decision in a contested case filed in accordance with section 17A.16 should specify whether prayer is for reconsideration, reargument, further hearing, modification of effective date, vacation, suspension, or otherwise.

5.35(2) Filing and notice of application. All such applications shall be filed with the board. The board may deny or grant such application. Upon acceptance or denial of an application all parties to the prior hearing shall be promptly notified of the denial or acceptance. All parties shall be promptly notified of any further hearing or procedural dates pertaining to an application filed under this rule.

5.35(3) Further hearing. When in an application filed under this rule, opportunity is sought to introduce evidence, the evidence to be adduced must be stated briefly, such evidence must not appear to be cumulative, and explanation must be given why such evidence was not previously adduced. If the board directs that further hearing be held:

a. Procedures under which the prior hearing was conducted shall govern the conduct of the rehearing except to the extent that such procedures are the grounds for granting the rehearing.

b. The issues may be limited by the board issuing proper notice of such limitation to all parties to the prior hearing.

5.35(4) Modification of effective date. An application under this section seeking only modification of the effective date of a decision, order, or requirement, or in the period of notice, or other period or date prescribed therein, must be filed seasonably, except that, in case of unforeseen emergency satisfactorily shown by petitioner, such relief may be sought informally by telegram or otherwise, provided like notice is simultaneously communicated to all parties of record.

5.35(5) Reconsideration. If relief under this rule other than under subrule 5.35(4) is sought, the matters claimed to have been erroneously decided and the relief sought must be specified with particularity.

5.35(6) Successive applications on same grounds not entertained. A successive application under this rule submitted by the same party or parties, and upon substantially the same grounds as a former petition, which has been considered and denied by the entire board will not be entertained.

5.35(7) Time for application. Any application filed under this rule must be filed within twenty days after service of the board's decision and order.

820—[12,B]5.36(17A,307) Petitions not otherwise covered. When the subject matter of any desired relief is not specifically covered by the rules in this chapter, a petition seeking such relief, and stating the reasons therefor may be served and filed.

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