State of Iowa

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PREFACE

Pursuant to section 17A.6, Code of Iowa, as amended by Sixty-seventh General Assembly, H.F. 2099 and S.F. 244, the Iowa Administrative Code [IAC] Supplement is published biweekly and supersedes Part II of previous publications.

Pursuant to section 17A.6 of the Iowa Code as amended by Sixty-seventh General Assembly, H.F. 2099 and S.F. 244, the Iowa Administrative Code [IAC] Supplement is published biweekly and supersedes Part II of previous publications.

The Supplement contains replacement pages to be inserted in the loose-leaf 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 administrative rules co-ordinator as provided in the Sixty-seventh General Assembly, H.F. 2099 and S.F. 244. [It may be necessary to refer to the Iowa Administrative Bulletin* to determine the specific change.] The Supplement may also contain new or replacement pages for "General Information" and a cumulative index for the Supplement.

When objections are filed to rules by the Administrative Rules Review Committee, Governor or the Attorney General, the context will be published with the rule to which the objection applies.

Any delay by the Administrative Rules Review Committee of the effective date of filed rules will also be published in the Supplement.

Each page in the Supplement contains a line at the top similar to the following:

IAC 12/29/75 Agriculture[30] Ch 1, p.1

*67GA, H.F. 2099 has mandated that the "Iowa Administrative Bulletin" be published in pamphlet form which will contain material formerly published in Part I of the IAC Supplement. The Bulletin will contain Notices of Intended Action, Filed rules, effective date delays, and the context of objections to rules filed by the Committee, Governor, or the Attorney General.

In addition, the Bulletin shall contain all proclamations and executive orders of the Governor which are general and permanent in nature, as well as other materials which are deemed fitting and proper by the Committee.

INSTRUCTIONS

FOR
Updating Iowa Administrative Code
with Biweekly Supplement

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 correspond to the tab sections in the IAC Binders.

Obsolete pages to IAC 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
December 27, 1978 Biweekly Supplement

IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
Arts Council [100]	Ch 2, p.2—p.4	Ch 2, p.2—p.5
Banking [140]	Ch 8, p.2, 2a Ch 9, p.1	Ch 8, p.2, 2a Ch 9, p.1
Conservation [290]	Ch 111, p.1—3	Ch 111, p.1—3
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Mental Health Authority [567]	Ch 1, p.1—Ch 3, p.1	Analysis, p.1—Ch 5, p.5
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*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.

	Remove Old Pages*	Insert New Pages
Nursing Board [590]	Ch 1, p.1, 1a Ch 4, p.6—Ch 5, p.1	Ch 1, p.1, 1a Ch 4, p.6—Ch 5, p.9
Nursing Home Administrators [600]	Ch 2, p.4—6	Ch 2, p.4—6
Public Defense [650]	Ch 6, p.1—Ch 7, p.1	Ch 6, p.1—Ch 7, p.1
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Substance Abuse [805]	Ch 3, p.1—10 Ch 3, p.15—20 Ch 3, p.23—Ch 4, p.1	Ch 3, p.1—10 Ch 3, p.15—20 Ch 3, p.23—Ch 4, p.1
Transportation [820]	[07,D] Ch 11, p.24, 25	[07,D] Ch 11, p.24, 25

*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.

organizations, arts groups, and community arts sponsors for projects which provide programs or services to the public and projects which aid the development of community arts capabilities. Matching grants are also available to artists in all fields for services or for new work which would not otherwise be possible and to which the public would have access.

(1) Certain eligibility requirements to be met are: Grants to groups or organizations are limited to those which are nonprofit and contributions to which are deductible under Section 170(c) of the Internal Revenue Code of 1954 as amended; all professional performers supporting staff, and laborers must be paid no less than the minimum compensation level for persons employed in similar activities; all grantees must comply with Title VI of the Civil Rights Act of 1964; grantees must be U.S. citizens or permanent residents of the United States.

(2) The following programs are not funded by the council: Deficit spending, profit-making organizations, and entertainment expenses. Usually the following programs are not funded by the Council: Capital improvements, permanent equipment over two hundred dollars and lasting longer than one year, operating expenses, travel or study out of Iowa, tuition assistance for colleges, recruitment for schools, courses offered for credit by academic institutions, students projects for academic credit, employment on a continuing basis of permanent personnel, projects in which grant funds replace local funds, conservation of art work, and exclusive audiences (students only, members only).

(3) The application procedure involves all of the following. Prospective applicants must submit a letter of intent containing: Name, address, and telephone number of the group, organization or individual requesting assistance, a brief description of the proposal, dates of the project or program, and the approximate amount of financial assistance requested. Upon review by the staff, the appropriate application form will be sent to the organization, group or individual.

Deadlines for the letter of intent and application form are as follows: Projects occurring in the succeeding project year July 1-June 30, must have the letter of intent postmarked by December 1 of the previous year and the application form postmarked or hand delivered to the office by January 10th of the project year; mini-grant projects will be accepted at any time. Previous grant recipients who have not met an IAC report deadline will be ineligible to apply for any funding for a period of not less than one year after the delinquent report is submitted. Mail deadline dates for the letter of intent and application form are governed by section 622.105 of the Code.

(4) The grant procedure involves two types of awards: Major grants (over $500 awarded) and minigrants ($500 or less awarded). Major grant projects are those that will run the full project period July-June and are reviewed only at the February business meeting of the council. Mini-grant projects usually run less than the full project year July-June and are reviewed throughout the year.

(5) The council reviews both major and mini-grant applications in the February business meeting and recommends action to the director who awards the grants. The council has recommended to the director that the director act on the mini-grants unless the director feels the application should be reviewed by the council. Official grant notification will be made by the director within ninety days of the date the application is received.

(6) Special guidelines for making application include the following policies:

A maximum of $1,500 will be awarded on applications for affiliate artists programs and maximum council support will be three years.

The council will not fund a total community subscription-only series but will consider support to total community series that are open to the public; however preference will be given to single-events applications.

Touring professionals should apply as individuals and cash match 50% of the fee with the community.

All applicants applying for performing assistance must arrange to be heard or seen in performance or audition by panel and/or council and/or staff within a year prior to making application.

The three-year phase-out plan for salary support for arts agencies is: $3,000 or ⅓ of the total salary (whichever is lower) the first year, ⅔ of the initial grant amount the second year, and ⅓ of the initial grant amount the third year, subject to yearly application and review. Salary support for part-time personnel would be allowed at $1,500 or ⅓ of the total salary (whichever is lower) the first year, ⅔ of the initial grant the second year, and ⅓ of the initial grant the third year, subject to yearly application and review. Secretarial support, if requested, must precede support for a director's position. Criteria for eligibility are:

1. Two years of productive service as an arts agency.
2. Three-year plan indicating . . . .
   Future funding sources.
   Programs/services planned for this three-year period.
   Job description and resume for the employee for whom salary support is requested.

Recommended maximum fees (council, grant, travel, and community match) for musicians are: Soloists, $550; soloist with accompanist, $650; duo, $650; trio, $650; quartet, $850; and quintet, $650. No minimum fees are recommended.

Individuals and/or groups not associated with any university, college, museum or gallery may apply for a touring art exhibit grant to pay for the full cost of preparing the exhibit to tour.

Financial support for preparing an exhibit to tour may include materials and supplies such as canvas, metal, photographic paper, paint, brushes, etc., for the production of works of art if the artist provides some explicit reciprocal public service. Artist's time in creating the work of art and the performance of the public service are not allowable expenses.

b. The artists in the schools places professional artists in schools or learning centers to stimulate and help guide creative activities and community projects. Professional artists are available in the disciplines of crafts, dance, film, folk art, poetry, and visual arts. The residencies last from several days to the full school year.

(1) The purposes can be stated as follows: To aid professional artists by giving them a time and opportunity to be productive, a receptive audience for creative interchange, responsibility for constructive activities with open-ended possibilities; providing students with positive, productive models in various disciplines, aiding teachers by sharing common goals and efforts in the extension of arts opportunities; and aiding administrators by suggesting concepts and potential resources, techniques, activities and personnel for programs of benefit to the school community.

(2) Community sponsors must meet the following eligibility requirements in order to qualify for a grant: Provide a school environment and schedule conducive to the spirit of the program, delegate a local project co-ordinator for scheduling and reporting of program,

complete and submit final program report to the director's office, complete an application form which can be requested from the director's office.

(3) For artists to qualify, each must submit: Resume, professional statement of educational attitudes or approaches or of possible activities or experiences, set of at least ten slides showing range of work and several letters of reference. The artist must also pass review and be recommended by the education advisory committee.

(4) Full-year residencies are determined in the preceding June for the following school year, by the education advisory committee and recommended to the director who then approves the grants. Residencies that last from one day to two weeks are recommended by the education director and then approved throughout the school year by the director.

c. Artists-in-residence short-term grants are awards established to meet technical assistance emergency needs for any nonprofit school, organization, museum or such for a matter of a day or several days, up to two weeks. The least amount of money necessary in order for the project to succeed will be awarded. The final amount will be determined in negotiation with the parties involved. Matching grants of from fifty dollars to four hundred dollars for a day to two-week residency are awarded by the director. The following application form is required before the director will award a grant.

Name of project director: _____

Telephone number of project director: _____

Total cost of project: _____

Approximate amount needed: _____

Sources contacted in seeking necessary funds: _____

d. Solo artists on tour grants are grants paying one-half the fee for a one-day residency by an artist. The grant of fifty dollars is paid directly to the artist and awarded by the director. A community fee of fifty dollars will be paid to the artist by the sponsoring organization.

The community or organization must complete the following application:

Sponsoring organization: _____

Address: _____ zip: _____

Person in charge: _____ phone: _____

Type of artist-program desired: _____

Name of artist (if particular artist is desired): _____

Date of program: _____ hours: _____

e. Community arts council assistance grants are available to community arts councils for assistance in the following: Securing consultants or technicians or administrators, upgrading or expanding an existing service or capability, sending key Iowa arts personnel to important workshops and conferences. To apply the applicant follows the same procedure as under the state and local partnership program with the same reviewing and granting procedure taking place after the director has received the application.

f. Community organization assistance grants are available to major arts organizations. A major arts organization is defined as one that has, or may have a substantial impact on a given community. The grants may be matching or nonmatching and will be awarded on the basis of giving assistance to an organization's particular needs. Grants are awarded at the April business meeting of the council and notification of an award will be made by the director within ninety days of the April meeting. To apply, the applicant must use the organization application form and the application must be in the council office by March 31. The applicant must also meet the following criteria:

(1) The arts organization must be independently operated and not attached to an accredited educational institution.

(2) Nonprofit, tax-exempt status must be shown in addition to being incorporated and located within the state of Iowa.

g. Access to the best grants-in-aid are available to small groups in the arts. Small groups are defined as those nonprofit, tax exempt, Iowa incorporated organizations not currently eligible to receive grants directly through the National Endowment for the Arts (NEA). Grants-in-aid will be available for projects beginning October 1, 1978 and ending prior to September 30, 1979. A letter of intent is due postmarked to the Arts Council by June 15, 1978. Upon receipt of the letter of intent, the Arts Council will send the application form. The completed application is due postmarked by August 1, 1978. The council will give priority in awarding grants-in-aid to:

(1) Organizations emphasizing outreach programs, especially those reaching less culturally developed areas of the state.

(2) Organizations requesting funds to improve the quality of the organization.

(3) Demonstrated experience and ability of the organization to deliver services as proposed in the application.

2.1(6) The director has the power to accept gifts, contributions or bequests for all purposes of chapter 304A.

100—2.2(304A) Restraints on director. The director shall avoid any actions which may interfere with the freedom of artistic expression or with the established or contemplated programs in any local community.

[Filed 11/17/75, Notice 9/22/75—published 12/1/75, effective 1/5/76]
[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
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[Filed emergency 5/19/78—published 6/14/78, effective 5/19/78]
[Filed 12/6/78, Notice 11/1/78—published 12/27/78, effective 2/2/79]

instrument; or upon written notice to be given not less than thirty days before the date of repayment.

b. Open account. A deposit, other than a time certificate of deposit, with respect to which there is in force a written contract with the customer that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the date of maturity, which shall be not less than thirty days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the customer in writing not less than thirty days in advance of withdrawals.

c. Multiple maturity. A time deposit that is payable at the customer's option on more than one date whether on a specified date or at the expiration of a specified time after the date of deposit, after written notice of withdrawal or with respect to which the underlying instrument or contract or any informal understanding or agreement provides for automatic renewal at maturity.

8.1(3)* *Savings deposit.* A savings deposit consists of funds credited to the account of a governmental unit, one or more individuals, a corporation, association or other organization, and with respect to which the customer is not required by the deposit contract but may at any time be required by the state bank to give not less than thirty days' notice in writing of an intended withdrawal before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

This rule is intended to implement section 524.805 of the Code.

140—8.2(524) Maximum interest on time and savings deposit. The superintendent of banking hereby prescribes the following maximum rates of interest payable on time and savings deposits.

8.2(1) *Time deposits of $100,000 or more.* There is no maximum rate of interest presently prescribed on any time deposit of $100,000 or more.

8.2(2) *Time deposits of less than $100,000.* The following shall apply:

a. Governmental units. The maximum rate of interest is 8% on such deposits having a maturity of not less than thirty days *except the maximum permissible rate of interest as provided for in 8.2(2)"*c*" may be paid on six-month Money Market Certificates.

b. Individual Retirement Account agreement or Koegh [H.R.10] plan established pursuant to 26 U.S.C. [I.R.C. 1954] sections 408 and 401.

Maturity Money Market Certificate (6 months)	Maximum Percent Average yields on 6 month Treasury Bills in latest weekly auction (Certificates of $10,000 or more)
30 days or more but less than 90 days	5%
90 days or more but less than 1 year	5½%
1 year or more but less than 2½ years	6%
2½ years or more but less than 3 years	6½%
3 years or more	8%

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

c. Other depositors.

Maturity Money Market Certificate (6 months)	Maximum Percent Average yields on 6 month Treasury Bills in latest weekly auction (Certificates of $10,000 or more)
30 days or more but less than 90 days	5%
90 days or more but less than 1 year	5½%
1 year or more but less than 2½ years	6%
2½ years or more but less than 4 years	6½%
4 years or more but less than 6 years	7¼% (Certificates of $1,000 or more)
6 years or more but less than 8 years	7½% (Certificates of $1,000 or more)
8 years or more	7¾% (Certificates of $1,000 or more)

8.2(3) *Savings deposit.* The maximum rate of interest is five percent per annum. This rule is intended to implement section 524.805 and section 17A.3 of the Code.

140—8.7(524) Cash reserve formula. Cash reserves required by section 524.816 shall consist of the sum of the following assets taken from the daily statement for each business day:

1. Coin and currency on hand.
2. Demand balances with other banks located within the United States.

For purposes of applying section 524.1602(1), the cash reserve shall not be deemed to be deficient if the average of the cash reserve for the day for which the computation is made and the four preceding business days is at least equal to the average cash reserve requirement for such five-day period. Corrective action shall be taken on the day following the date of the daily statement for which the computation of averages discloses a deficiency in the cash reserve.

This rule is intended to implement sections 17A.3, 524.805 and 524.816 of the Code.

[Filed 12/9/69; amended 1/28/71, 6/28/73, 7/10/73, 7/27/73, 11/14/73, 12/6/74, 12/19/74]
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CHAPTER 9
INVESTMENT AND LENDING POWERS

140—9.1(524) Bonds or securities investment characteristics. Bonds or other investment securities purchased for investment by a state bank for its own account as provided in section 524.901(2) of the Code shall consist of obligations, which have been publicly offered or which are of such sound value or are so well secured as to be readily salable at a fair value, with investment characteristics not distinctly or predominantly speculative. They shall fall within the four highest grades according to a reputable rating service or they shall represent unrated issues of equivalent value.

This rule is intended to implement section 524.901(2) of the Code.

[Filed December 9, 1969]

CONSERVATION COMMISSION[290]

DIVISION OF FISH AND GAME

CHAPTER 111
1979 WILD TURKEY HUNTING REGULATIONS

290—111.1(109) General. Wild turkey may be taken during the 1979 season subject to the following regulations:

111.1(1) *License.* All hunters must have in possession a 1979 wild turkey license when hunting wild turkey. Licenses will be issued by zone and period and will be valid in the designated zone and for the designated period only. No person shall obtain more than one license per year.

111.1(2) *Daily and possession limits.* Daily bag limit, one bearded wild turkey; possession limit, one bearded wild turkey; season limit, one bearded wild turkey.

111.1(3) *Shooting hours.* Shooting hours shall be from one-half hour before sunrise to noon each day.

290—111.2(109) Method of take.

111.2(1) *Shotgun and bow and arrow.* Wild turkey may be taken by shotgun and bow and arrow in zones one through five, from April 19, 1979, through May 13, 1979, and in zones six through eight from April 26, 1979, through May 20, 1979.

111.2(2) *Zones.*

a. Zone one. Wild turkey, in accordance with the tenure of license issued, may be taken in zone one which is the Lucas and White Breast Units only of the Stephens State Forest in Lucas and Clarke Counties.

b. Zone two. Wild turkey, in accordance with the tenure of license issued, may be taken in zone two which is the Cedar Creek, Thousand Acres and Chariton Units only of the Stephens State Forest in Lucas and Monroe Counties.

c. Zone three. Wild turkey, in accordance with the tenure of license issued, may be taken in zone three which is the Farmington, Donnellson, Lick Creek, and Croton Units only of the Shimek State Forest in Lee and Van Buren Counties.

d. Zone four. Wild turkey, in accordance with the tenure of license issued, may be taken in zone four which is an area bounded as follows: Beginning at the point where U.S. Highway 169 crosses the Iowa-Missouri State Line; thence north on U.S. Highway 169 to State Highway 92; thence east on State Highway 92 to State Highway 5; thence southeasterly on State Highway 5 to the Chicago, Milwaukee, St. Paul, and Pacific Railroad near Moravia; thence northeasterly along said railroad to U.S. Highway 34; thence east on U.S. Highway 34 to the Des Moines River; thence southeasterly along the Des Moines River to Eldon; thence north on State Highway 16 to U.S. Highway 34; thence east on U.S. Highway 34 to the Jefferson-Henry County line; thence south along the Jefferson-Henry County line and Van Buren-Henry County line to State Highway 16; thence east on State Highway 16 to U.S. Highway 218; thence north on U.S. Highway 218 to State Highway 78; thence east on State Highway 78 to U.S. Highway 61; thence east on Louisa County Road H22 to State Highway 99; thence south on State Highway 99 to Burlington; thence south along the Iowa-Illinois state line to the Iowa-Missouri state line; thence west along the Iowa-Missouri state line to the point of beginning; with the exception that the previously described Zones one, two, and three are excluded from this zone as is an area described as follows: Beginning at the intersection of State Highway 2 and State Highway 103 at Fort Madison; thence north and west along State Highway 103 to U.S. Highway 218; thence south along U.S. Highway 218 to State Highway 2; thence east on State Highway 2 to the point of beginning.

e. Zone five. Wild turkey, in accordance with the tenure of license issued, may be taken in zone five which is an area bounded as follows: Beginning at the intersection of Interstate

Highways 80 and 380; thence north along Interstate Highway 380 to Johnson County Road F12; thence west on Johnson and Iowa County Roads F12 to State Highway 149; thence north on State Highway 149 to Benton County Road E68; thence west and north on Benton County Road E68 to Benton County Road E66; thence west on Benton County Road E66 to Benton County Road V56; thence south on Benton and Iowa County Roads V56 to Marengo; thence south on Iowa County Road V66 to Interstate Highway 80; thence east on Interstate Highway 80 to the point of beginning.

f. Zone six. Wild turkey, in accordance with the tenure of license issued, may be taken in zone six which is an area bounded as follows: Beginning at the Iowa-Wisconsin state line at Lansing, Iowa; thence north along the Iowa-Wisconsin state line to the Iowa-Minnesota state line; thence west along the Iowa-Minnesota state line to State Highway 76; thence south on State Highway 76 to Allamakee County Road A26; thence west on Allamakee and Winneshiek County Roads A26 to Winneshiek County Road W38; thence southwest along Winneshiek County Road W38 to Decorah; thence east on State Highway 9 to the point of beginning.

g. Zone seven. Wild turkey, in accordance with the tenure of license issued, may be taken in zone seven which is an area bounded as follows: Beginning where U.S. Highway 18 crosses the Iowa-Wisconsin state line; thence north along said state line to Lansing, Iowa; thence west on State Highway 9 to its intersection with State Highway 51; thence south on State Highway 51 to U.S. Highway 18; thence east on U.S. Highway 18 to the point of beginning.

h. Zone eight. Wild turkey, in accordance with the tenure of license issued, may be taken in zone eight which is an area bounded as follows: Beginning where U.S. Highway 18 crosses the Iowa-Wisconsin state line; thence west along U.S. Highway 18 to U.S. Highway 52; thence south along U.S. Highway 52 to State Highway 13; thence south on State Highway 13 to State Highway 56; thence west on State Highway 56 to State Highway 150; thence south on State Highway 150 to State Highway 154; thence south on State Highway 154 to State Highway 3; thence east on State Highway 3 to U.S. Highway 52; thence north on U.S. Highway 52 to Guttenberg; thence north along the Iowa-Wisconsin state line to the point of beginning.

290—111.3(109) Permitted and prohibited weapons and devices.

111.3(1) *Permitted weapons.* 10-12-16-20-gauge shotguns shooting shot only, and long bows with broadhead arrows only will be permitted in taking wild turkey.

111.3(2) *Prohibited devices.* The use of decoys, dogs, horses, motorized vehicles, aircraft, bait, and the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds is prohibited.

290—111.4(109) Application procedure. All applications for wild turkey hunting licenses for the 1979 wild turkey hunting season must be made on forms provided by the state conservation commission and returned to the state conservation commission office in Des Moines, Iowa, with a remittance of fifteen dollars. Individual applications only will be accepted.

111.4(1) Applications for wild turkey licenses shall be received and accepted from February 5, 1979, through March 6, 1979, during regular daily office hours of 8:00 a.m. to 4:30 p.m. only. No person shall submit more than one application. At the end of such period, if applications have been received in excess of the license quota for any hunting zone or period the commission shall conduct a drawing to determine which applicants shall receive licenses. Incomplete applications or applications received prior to or after the application period shall not be considered valid applications for such drawing. If the quota for any hunting period or zone has not been filled by applications received during such application period, licenses shall then be issued in the order in which applications are received thereafter and shall continue to be issued until such quota has been met or until April 3, 1979, whichever first occurs.

a. Zone one. No more than one hundred ninety-five wild turkey licenses will be issued in zone one. No more than sixty-five licenses will be issued for the period of April 19, 1979, through April 25, 1979; no more than sixty-five licenses will be issued for the period of April 26, 1979, through May 2, 1979; and no more than sixty-five licenses will be issued for the period of May 3, 1979, through May 13, 1979.

b. Zone two. No more than one hundred eighty wild turkey licenses will be issued in zone two. No more than sixty licenses will be issued for the period of April 19, 1979, through April 25, 1979; no more than sixty licenses will be issued for the period of April 26, 1979, through May 2, 1979; and no more than sixty licenses will be issued for the period of May 3, 1979, through May 13, 1979.

c. Zone three. No more than three hundred wild turkey licenses will be issued in zone three. No more than one hundred licenses will be issued for the period of April 19, 1979, through April 25, 1979; no more than one hundred licenses will be issued for the period of April 26, 1979, through May 2, 1979; and no more than one hundred licenses will be issued for the period of May 3, 1979, through May 13, 1979.

d. Zone four. No more than one thousand eight hundred wild turkey licenses will be issued in zone four. No more than six hundred licenses will be issued for the period of April 19, 1979, through April 25, 1979; no more than six hundred licenses will be issued for the period of April 26, 1979, through May 2, 1979; and no more than six hundred licenses will be issued for the period of May 3, 1979, through May 13, 1979.

e. Zone five. No more than one hundred twenty wild turkey licenses will be issued in zone five. No more than forty licenses will be issued for the period of April 19, 1979, through April 25, 1979; no more than forty licenses will be issued for the period of April 26, 1979, through May 2, 1979; and no more than forty licenses will be issued for the period May 3, 1979, through May 13, 1979.

f. Zone six. No more than one hundred fifty wild turkey licenses will be issued in zone six. No more than fifty licenses will be issued for the period April 26, 1979, through May 2, 1979; no more than fifty licenses will be issued for the period May 3, 1979, through May 9, 1979; and no more than fifty licenses shall be issued for the period May 10, 1979, through May 20, 1979.

g. Zone seven. No more than two hundred twenty-five wild turkey licenses will be issued in zone seven. No more than seventy-five licenses will be issued for the period April 26, 1979, through May 2, 1979; no more than seventy-five licenses will be issued for the period May 3, 1979, through May 9, 1979; and no more than seventy-five licenses will be issued for the period May 10, 1979, through May 20, 1979.

h. Zone eight. No more than two hundred twenty-five wild turkey licenses will be issued in zone eight. No more than seventy-five licenses will be issued for the period April 26, 1979, through May 2, 1979; no more than seventy-five licenses will be issued for the period May 3, 1979, through May 9, 1979; and no more than seventy-five licenses will be issued for the period May 10, 1979, through May 20, 1979.

290—111.5(109) Transportation tag. A transportation tag bearing license number of licensee, year of issuance, and date of kill properly shown shall be visibly attached to the carcass of each wild turkey before carcass can be transported. Said tag shall be proof of possession of the carcass by the above mentioned licensee.

These rules are intended to implement sections 109.38, 109.39 and 109.48 of the Code.

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ENGINEERING EXAMINERS[390]

CHAPTER 1
ADMINISTRATION

390—1.1(114) General statement. The practice of professional engineering and land surveying affects the life, health, and property of the people in Iowa. The Iowa state board of engineering examiners exists for this reason, and the board believes its principal mandate is the protection of the public interest.

1.1(1) *Administration.* Administration of the board has not been separated into panels, divisions, or departments. While the expertise of a board member may be called upon to frame special examinations and evaluate applications for licensing in a specialized engineering branch, the board functions in a unified capacity on all matters which may come before it. The board maintains an office in Des Moines, and requests or submissions may be directed to the secretary of the board at that location.

1.1(2) *Meetings.* Regular meetings of the board generally are held each month. The board currently administers two-day licensing examinations twice each year. Information concerning the location and dates for meetings and examinations may be obtained from the board's office.

390—1.2(114) Licensing. Persons desiring to be licensed as a professional engineer or land surveyor shall submit a completed application on forms which may be procured from the board's office. These applications are four pages in length and request information under oath in the following categories: General Information; Confidential References; Memberships; Previous Registration; Education; and Professional Experience.

a. Academic transcript. Completion of post-high school education shall be evidenced by receipt of an applicant's transcript directly from the office of the registrar.

b. Work project description. An applicant for an initial registration as a professional engineer or land surveyor must include with his or her application a statement of approximately two hundred words briefly describing a significant project on which he or she worked closely during the last twelve months. Such statement shall describe the applicant's degree of responsibility for the project; it shall identify the project's owner and its location.

c. Requirements for examination. The specific requirements for initial licensing in Iowa are established in section 114.14 of the Code, and it is the board's policy to issue initial registrations only when those requirements are satisfied chronologically in the order set forth in the statute. Thus, an applicant first must satisfy the practical experience or educational requirements; secondly, the Fundamentals Examination and the professional experience; and thirdly, the Professional Examination. The Fundamentals Examination may be taken any time after satisfying the practical experience or educational requirements, but it must be taken prior to the Professional Examination. College seniors studying an Engineering Council for Professional Development (ECPD) accredited engineering program may take the Fundamentals Examination during the final academic year; such applicants will be permitted to submit for examination during the testing period which most closely precedes anticipated graduation. However, a certified transcript showing that the applicant was graduated must be sent by the registrar to the board before an applicant's examination results will be considered. Applicants who were graduated from a satisfactory engineering program and have twenty-five years or more of work experience satisfactory to the board shall not be required to take the Fundamentals Examination.

1.2(1) *Confidentiality.* The personnel records of registered professional engineers and land surveyors and of candidates for such registration shall be closed to the public, except upon order of Court. A registrant or applicant may examine his or her own file, with the exception that references shall be confidential. Upon receipt of a notarized request and prepayment of five dollars by a registrant or an applicant, the board will copy the requested portions of his or her file and deliver or mail the same to such person or such person's designee.

1.2(2) *Substitution of experience for education.* Engineering and land surveying applicants may substitute practical experience for educational requirements. The board generally will require the minimum number of years set forth below before an applicant will be permitted to take either the Fundamentals or the Professional Examination. Further, the requirement of the Fundamentals Examination will not be waived solely as a consequence of an applicant's level of education.

CHAPTER 2
MINIMUM STANDARDS FOR PROPERTY SURVEYS

390—2.1(114) Scope. The minimum standards of this rule apply to every property survey performed in this state except that:

2.1(1) Where other standards for property surveys are prescribed by statute, administrative rule or ordinance, then such standards shall govern; and

2.1(2) The land surveyor and surveyor's client or property owner may agree to exclude any land surveying work from the requirements of this rule providing such agreement is set forth in writing, is signed by the client or property owner and specifically refers to this rule and is noted on the surveyor's plat of such survey.

390—2.2(114) Property survey, definition. A "property survey" as used in this rule means any land surveying performed for the principal purpose of describing, monumenting, locating the boundary lines, or platting one or more parcels of land.

390—2.3(114) Boundary location. Every property survey should be made in accordance with the legal description (record title) boundaries as nearly as is practicable. The surveyor shall acquire data necessary to retrace record title boundaries, center lines, and other boundary line locations. The surveyor shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. The surveyor shall make a field survey, traversing and connecting monuments necessary for location of the parcel and co-ordinate the facts of such survey with the analysis. The surveyor shall set monuments marking the corners of such parcel unless monuments already exist at such corners.

390—2.4(114) Descriptions. Descriptions defining land boundaries written for conveyance or other purposes shall be complete, providing definite and unequivocal identification of lines or boundaries. The description must contain dimensions sufficient to enable the description to be platted and retraced and shall describe the land surveyed either by government lot or by quarter-quarter section or by quarter section and shall identify the section, township, range and county; and by metes and bounds commencing with some corner marked and established in the U.S. Public Land Survey System; or if such land is located in a recorded subdivision or recorded addition thereto, then by the number or other description of the lot, block or subdivision thereof which has been previously tied to a corner marked and established by the U.S. Public Land Survey System. If the parcel is described by metes and bounds it may be referenced to known lot or block corners in recorded subdivision or additions.

390—2.5(114) Plats. A plat shall be drawn for every property survey showing information developed by the survey and including the following elements:

2.5(1) The plat shall be drawn to a convenient scale;

2.5(2) The plat shall show the length and bearing of the boundaries of the parcels surveyed. Where the boundary lines show bearing, lengths or locations which vary from those recorded in deeds, abutting plats or other instruments there shall be the following note placed along such lines, "recorded as (show recorded bearing, length or location)";

2.5(3) The plat shall show and identify all monuments necessary for the location of the parcel and shall indicate whether such monuments were found or placed;

2.5(4) The plat shall be captioned to identify the person for whom the survey was made, the date of the survey, and shall describe the parcel as provided in 2.4(114) above;

2.5(5) The plat shall bear the signature of the land surveyor, a statement certifying that the work was done by the surveyor or under the surveyor's direct personal supervision, and the surveyor's Iowa registration number or legible seal.

390—2.6(114) Measurements.

2.6(1) Measurements shall be made with instruments and methods capable of attaining the required accuracy for the particular problem involved;

2.6(2) Measurements as placed on the plat shall be in conformance with the capabilities of the instruments used;

2.6(3) The unadjusted closure for all surveys shall be not greater than 1 in 5,000.

2.6(4) In a closed traverse the sum of the measured angles shall agree with the theoretical sum by a difference not greater than thirty seconds times the square root of the number of angles;

2.6(5) Bearings or angles on any property survey plat shall be shown to the nearest one minute; distances shall be shown to the nearest one-tenth foot.

390—2.7(114) Monuments. Permanent monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The registered land surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the registered land surveyor to the top of the monument. See rule 2.3(114).

[Filed 4/1/77, Notice 12/29/76—published 4/20/77, effective 5/25/77]

CHAPTER 3
PROFESSIONAL DEVELOPMENT

390—3.1(114) General statement. Each registrant is required to meet the requirements of this chapter for professional development as a condition of license renewal.

390—3.2(114) Units. The unit for the professional development requirements is the Professional Development Hour (PDH). The conversion to this unit from other units is:

1 Hour of an acceptable professional development activity ..... 1 PDH
1 Semester hour of university credit ..... 45 PDH
1 Quarter hour of university credit ..... 30 PDH
1 CEU (Continuing Education Unit) ..... 10 PDH

All activities must contribute directly to the professional competency of the registrant.

390—3.3(114) Annual requirement. Requirements for Professional Development Hours must be met preceding annual license renewal in accordance with the following table.

PROFESSIONAL DEVELOPMENT HOURS—ANNUAL REQUIREMENT

Hours per year of Engineering or Land Surveying Employment		Formal Professional Development Hours Required (Note 1)	Informal Professional Development Hours Required (Note 2)	Total Professional Development Hours Required
From	To			
1600	—	15	25	40
1200	1599	18	32	50
800	1199	22	38	60
400	799	26	44	70
0	399	30	50	80

Note 1. The average annual number of formal professional development hours accumulated during the three-year period ending on the December 31 preceding annual license renewal may be used to satisfy this requirement.

Note 2. Formal professional development hours may be substituted for informal professional development hours. Requirements for informal professional development hours must be satisfied during the one-year period ending on December 31 preceding annual license renewal.

390—3.4(114) Formal professional development requirement. Activities which satisfy the formal professional development requirement are college and university courses, courses which are awarded continuing education units (CEU's), technical meetings, seminars, tutorials and short courses, and correspondence courses. These activities must meet the following criteria:

1. There is a clear purpose and objective for each activity.
2. The content of each presentation is well organized and presented in a sequential manner.
3. There is evidence of preplanning which should include the opportunity for input by the target group to be served.
4. The presentation will be made by persons who are well-qualified by education or experience.
5. There is a provision for individual participant registration which will include information required for recordkeeping and reporting.

Other activities which may be used to satisfy all or part of the formal professional development requirement are:

Sabbatical or leave for study or research
Published papers and articles
Published books
Presentations at technical meetings
Instruction of continuing education courses

These activities must be documented and the board will determine the amount of Professional Development Hours allowed in each case.

390—3.5(114) Informal professional development requirement. Activities which satisfy the informal requirement are self-study, reading, attendance at technical and professional meetings, participation in local, state and national technical and professional societies, and other similar activities. The board recommends that a variety of activities be undertaken in the satisfaction of this requirement.

390—3.6(114) Inactive registrants. Registrants who are not engaged in engineering or land surveying practice which requires registration in Iowa may upon application to the board be granted inactive status. No registrant on inactive status may practice in Iowa unless otherwise exempted in chapter 114, Code of Iowa. Inactive registrants are exempt from the professional development requirements in this chapter but shall satisfy the appropriate requirements for reinstatement:

3.6(1) Inactive status for 0-7 years and inactive status for longer than seven years with eight hundred hours or more per year of engineering or land surveying employment—

a. Satisfaction of the annual requirement (rule 3.3(114) or 3.8(114) multiplied by the number of years on inactive status up to three years, but not less than one year, within the three-year period immediately prior to application for reinstatement, or

b. Successful completion of the Principles and Practice examination within one year immediately prior to application for reinstatement.

3.6(2) Inactive status for longer than seven years with less than eight hundred hours per year of employment in engineering or land surveying.

a. Satisfaction of the annual (rule 3.3(114) or 3.8(114)) requirement multiplied by three, and

b. Successful completion of the Principles and Practice examination within one year immediately prior to application for reinstatement.

390—3.7(114) Multiple branch registrants. Professional development requirements for registrants in more than one engineering branch are satisfied by the requirements in rule 3.3(114) or 3.8(114).

390—3.8(114) Engineer-land surveyor registrants. Registrants who are licensed in both professional engineering and land surveying must meet the following annual requirements.

PROFESSIONAL DEVELOPMENT HOURS FOR PE/LS REGISTRANTS—ANNUAL REQUIREMENT

Hours per year of Engineering and/or Land Surveying Employment		Formal Professional Development Hours Required (Note 1)		Informal Profesional Development Hours Required (Note 2) (Note 3)	Total Professional Development Hours Required
		In Engineer'g	In L.S.		
1600	—	10	10	40	60
1200	1599	12.5	12.5	45	70
800	1199	15	15	50	80
400	799	17.5	17.5	55	90
0	399	20	20	60	100

Note 1. (Same as in rule 3.3(114))
Note 2. (Same as in rule 3.3(114))
Note 3. Informal professional development hours may be in either engineering or land surveying or any combination thereof.

390—3.9(114) Reinstatement of lapsed registration. A person who wishes to reinstate a lapsed registration must satisfy the requirements for inactive registrant reinstatement given in rule 3.6(114).

390—3.10(114) Exemptions. Registrants are deemed to have complied with the foregoing continuing education requirements:

1. During period that the registrant serves honorably on active duty in the military services.

2. During periods that the registrant is registered in another state or district having continuing education requirements for professional engineering and/or land surveying equal to or more stringent than the requirements of these rules and meets all requirements of that state or district for practice therein.

3. During periods that the registrant is an employee working in his or her licensed specialty and assigned to duty outside of the United States.

390—3.11(114) Hardships or extenuating circumstances. The board may in individual cases involving hardship or extenuating circumstances grant waivers of the continuing education requirements for a period of time not to exceed one year. No waiver or extension of time shall be granted unless the registrant makes a written request to the board for such action.

390—3.12(114) Noncompliance. A registrant who in the opinion of the board does not satisfy the requirements for license renewal stated in this chapter will be placed on probationary status and notified of the fact within ninety days after the renewal date. Within ninety days after such notification, the registrant must submit evidence to the board demononstrating that the deficiencies have been satisfied. If the deficiencies are not made up within the specified period of time, the registrant's license will be classified as lapsed without further hearing.

390—3.13(114) Requirements for initial years. Individuals who are registrants on the effective date of these rules shall satisfy the appropriate formal professional development requirement specified in rule 3.3(114) or 3.8(114) according to the following schedule: schedule:

Requirements for license renewal on January 1, 1981:
The annual requirement must be accumulated prior to January 1, 1981, during the twenty-four month period preceding such date.

Requirements for license renewal on January 1, 1982:
Two times the annual requirement must be accumulated prior to January 1, 1982, during the thirty-six-month period preceding such license renewal.

Requirements for license renewal on January 1, 1983 and thereafter: Same as rule 3.3(114) or 3.8(114).

The informal professional development requirement must be satisfied in accordance with rule 3.3(114) or 3.8(114) beginning with license renewal on January 1, 1981.

390—3.14(114) New registrants. Applicants who become registered in Iowa after the effective date of these rules shall satisfy the appropriate formal professional development requirements specified in rule 3.3(114) or 3.8(114) according to the following schedule:

Requirements for first license renewal: No formal professional development hours required.

Requirements for second license renewal: The annual requirement must be accumulated prior to the second license renewal during the twenty-four month-period preceding such license renewal.

Requirements for third license renewal: Two times the basic requirement must be accumulated prior to the license renewal during the thirty-six month period preceding such license renewal.

Fourth and subsequent license renewal: Same as rule 3.3(114) or 3.8(114).

The informal professional development requirement must be satisfied in accordance with rule 3.3(114) or 3.8(114) beginning with the second license renewal.

390—3.15(114) Reports and records. At the time of application for license renewal, each registrant shall report on a form provided by the board the professional development activities undertaken during the preceding year to satisfy the requirements of this chapter.

The registrant shall maintain a file in which records of the activities are kept, including dates, subjects, duration of programs, registration receipts where appropriate and other appropriate documentation, for a period of four years after the date of the program.

[Filed 12/8/78, Notice 10/4/78—published 12/27/78, effective 1/31/79]

CHAPTER 4
DISCIPLINE OF REGISTRANTS

4.1 to 4.3 Reserved.

390—4.4(114) Peer review committees. The board may appoint a peer review committee for the investigation of a complaint about the acts or omissions of one or more registrants.

4.4(1) *Membership.* A committee shall consist of three or more engineers and/or land surveyors, as determined by the board, who are selected for their knowledge and experience in the type of engineering or land surveying involved in the complaint.

The following are ineligible for membership:

a. Members of the Iowa State Board of Engineering Examiners.

b. Close relatives of the alleged violator(s) or complainant.

c. Individuals employed by the same firm or governmental unit as the alleged violator(s) or complainant.

4.4(2) *Authority.* The committee's investigation shall be limited to interviewing of: Complainants, the alleged violator, individuals with knowledge of the alleged violation, and individuals with knowledge of the alleged violator's reputation in the community.

The committee may not hire legal counsel, investigators, secretarial help or any other assistants without written authorization from the board.

4.4(3) *Compensation.* Committee members may receive per diem compensation equal to that received by board members for performing board duties. Committee members may be paid reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties within a budget limitation established by the board.

4.4(4) *Reports.* Each peer review committee shall submit a written report within a reasonable period of time that either recommends dismissal of the complaint, further investigation time that either recommends dismissal of the complaint, further investigation by discipline counsel, or disciplinary proceedings. If further investigation by discipline counsel or disciplinary proceedings is recommended, supporting information shall be provided to discipline counsel.

Upon satisfactory completion of the investigation by the committee, the committee is to be dismissed by the board. The board may dismiss individual members of a committee or add new members at any time.

4.4(5) *Disciplinary recommendations.* The recommendations of peer review committee which shall constitute disciplinary recommendations which must be reported to the board are those acts and omissions that constitute grounds for a reprimand, license, suspension or license renewal. These acts and omissions are defined in rule 4.2(114).

390—4.5(114) Disputes between registrants and clients. Reports from the insurance commissioner or other agencies on the results of judgments or settlements of disputes arising from malpractice claims or other actions between professional engineers or land surveyors and their clients shall be referred to the discipline counsel or peer review committee. The discipline counsel or peer review committee shall investigate the report for violation of the statutes or rules governing the practice or conduct of the registrant. The discipline counsel or peer review committee shall advise the board of any probable violations, any further action required, or recommend dismissal from further consideration.

[Filed 12/8/78, Notice 8/9/78—published 12/27/78, effective 1/31/79]

(4) A copy of the permit, engineering plans, and specifications be kept at the site at all times;

(5) Sites not open to the public have a permanent sign posted at the site entrance specifying: Name of the operation; the site permit number; that the site is not open to the public; the owner's name and telephone number.

400—33.4(455B) Time of compliance. Publicly owned treatment works shall have until July 1, 1979 to comply with this chapter.

These rules are intended to implement sections 455B.32 and 455B.78 of the Code.

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CHAPTER 34
BEVERAGE CONTAINER DEPOSITS

400—34.1(67GA,Ch1162) Scope. This chapter is intended to implement the provisions of Acts of the Sixty-seventh General Assembly, chapter 1162. The Act requires that on or after May 1, 1979, every alcoholic liquor container, and that or on after July 1, 1979, every beer, mineral water, soda water or carbonated soft drink container sold in Iowa for consumption off the premises of the dealer be subject to a deposit of five cents or more. Such container must have indicated on it that the container is subject to a minimum refund of five cents or must be exempt from the requirement of having the refund value indicated on it. An empty container on which a deposit was made may be returned to any dealer in the state who sells the kind, brand and size of container or may be returned to a redemption center. The dealer or redemption center must accept the empty container and refund the deposit.

The Act also prohibits the sale at retail of any metal beverage container so designed and constructed that a part of the container is detachable in opening, the so-called "pop-top can".

This chapter contains rules specifying the minimum size of type to be used for indicating the minimum refund value on beverage containers, rules relating to approval of redemption centers for beverage containers and rules relating to exemptions from labeling the refund value on beverage containers. This chapter also contains interpretive rules that clarify or interpret the statute, or apply the statute to specific factual situations.

400—34.2(67GA,Ch1162) Definitions. As used in this chapter:

34.2(1) *"Act"* means Acts of the Sixty-seventh General Assembly, 1978 Session, chapter 1162.

34.2(2) *"Alcoholic liquor"* includes alcohol, spirits and wine, except beer as defined in 34.2(4) but including all beverages made as described in 34.2(4) which contain more than four percent of alcohol by weight, and every liquid or solid patented or not, containing alcohol, spirits or wine, and susceptible of being consumed by a human being for beverage purposes.

a. "Alcohol" means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

b. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, but not limited to, brandy, rum, whisky, and gin.

c. "Wine" means any beverage containing alcohol obtained by the fermentation of the natural sugar contents of fruits or other agricultural products.

34.2(3) *"Approved redemption center"* means a redemption center that has been approved by the department pursuant to 34.4(67GA,Ch1162).

34.2(4) *"Beer"* means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt and hops, with or without unmalted grains containing not more than four percent of alcohol by weight.

34.2(5) *"Beverage"* means alcoholic liquor, beer, mineral water, soda water or similar carbonated soft drinks in liquid form intended for human consumption.

34.2(6) *"Beverage container"* means any sealed glass, plastic, or metal bottle, can, jar or carton containing a beverage.

34.2(7) *"Carbonated"* means charged under pressure with carbon dioxide.

34.2(8) A *"class "A" liquor control license"* may be issued to a club and shall authorize the holder to purchase alcoholic liquors from the Iowa beer and liquor control department only, and to sell such liquors, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

"Club" means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

34.2(9) A *"class "B" liquor control license"* may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from the Iowa beer and liquor control department only, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. Each such license shall be effective throughout the premises described in the application.

"Hotel" or *"motel"* means a premise licensed by the state department of agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

34.2(10) A *"class "C" liquor control license"* may be issued to a commercial establishment but must be issued in the name of the individual or individuals who actually own the entire business and shall authorize the holder or holders to purchase alcoholic liquors from the Iowa beer and liquor control department only, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises.

"Commercial establishment" means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and the licensed premises of which conform to the standards and specifications of the Iowa beer and liquor control department.

34.2(11) *"Commission"* means the solid waste disposal commission of the department of environmental quality.

34.2(12) *"Consumer"* means any person who purchases a beverage in a beverage container for use or consumption.

34.2(13) *"Dealer"* means any person who engages in the sale of beverages in beverage containers to a consumer.

34.2(14) *"Department"* means the department of environmental quality.

34.2(15) *"Distributor"* means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales.

34.2(16) *"Executive director"* means the executive director of the department of environmental quality.

34.2(17) *"Exempt beverage container"* means a beverage container that is not marked with the words "Iowa Refund 5¢" because it is a refillable glass beverage container having a brand name permanently marked on it and having a refund value of five or more cents or because it is a refillable metal or plastic beverage container that has been exempted, in accordance with the procedure of 34.3(7), from the requirement of having the refund value marked on the container. An exempt beverage container is exempt from having the words "Iowa Refund 5¢" indicated on the container, but is not necessarily exempt from the

minimum deposit.

34.2(18) *"Manufacturer"* means any person who bottles, cans, or otherwise fills beverage containers for sale to distributors or dealers.

34.2(19) *"Mineral water"* means water naturally or artifically infused with mineral salts or gases. Mineral water may be carbonated or uncarbonated.

34.2(20) *"Redemption center"* means any establishment other than a dealer's premises at which consumers may return empty beverage containers and receive payment of the refund value of the containers, or means the premises of a dealer if the dealer voluntarily chooses to accept, and refund the deposit on, empty beverage containers (other than alcoholic liquor containers) that are not of the kind, size and brand sold by the dealer. A redemption center is either an approved redemption center or an unapproved redemption center.

34.2(21) *"Soda water"* means water that has been carbonated.

34.2(22) *"Soft drink"* means any nonalcoholic liquid other than mineral water or soda water intended for human consumption.

34.2(23) *"Unapproved redemption center"* means a redemption center that has not been approved by the department pursuant to 34.4(67GA,Ch1162).

400—34.3(67GA,Ch1162) Labeling requirements.

34.3(1) All beer, mineral water, soda water and carbonated soft drink containers (other than exempt containers) sold or offered for sale on or after July 1, 1979 in Iowa by a dealer shall have the words "Iowa Refund 5¢" clearly and legibly indicated on the container. If the refund value is more than five cents, the greater value may be indicated, e.g., "Iowa Refund 10¢".

34.3(2) The minimum size of the words "Iowa Refund 5¢" shall be 18 point type (approximately .25 inch or 6 millimeters).

34.3(3) The words "Iowa Refund 5¢" shall be indicated by embossing (raised letters) or by a stamp, label or other method securely and permanently affixed to the container.

34.3(4) The print on a stamp, label or other method used to indicate the words "Iowa Refund 5¢" should be in a high contrast color.

34.3(5) The words "Iowa Refund 5¢" should be on the end of a metal beverage container. The words "Iowa Refund 5¢" should be on the conical portion of a glass or plastic beverage container so that the words are visible from above.

34.3(6) An exemplar of the label or labeled container may, but need not, be submitted to the executive director for informal approval.

34.3(7) An application for exemption from the requirement of having the words "Iowa Refund 5¢" indicated on the container shall be on form LQ 37 or on 8½ x 11 inch paper and contain:

a. The name, address and phone number of the applicant;

b. The kind of container, i.e., glass, metal or plastic; the size in fluid ounces or milliliters and the contents, i.e., beer, mineral water, soda water or carbonated soft drink;

c. The refund value of the container; and

d. A statement of why the container can be readily and permanently identified by consumers as subject to a deposit.

34.3(8) The executive director may exempt the container if the executive director determines that the container is subject to a deposit of five or more cents and that consumers can readily and pemanently identify the container as one subject to a deposit.

34.3(9) The executive director shall maintain and, from time to time, distribute a list of all brands, kinds and sizes of beverage containers that have been exempted from the requirement of having the words "Iowa Refund 5¢" indicated on the container.

400—34.4(67GA,Ch1162) Approval of redemption centers.

34.4(1) *Approved and unapproved redemption centers explained.* The Act provides for both approved and unapproved redemption centers. Both approved and unapproved

redemption centers perform the same activity, that is, redemption of empty beverage containers; and both are lawful. However, an approved redemption center relieves any dealer covered in the order approving the redemption center from the obligation of redeeming those empty beverage containers covered in the order under 34.4(4). Thus the difference between an approved and unapproved redemption center, is in the effect on the obligation of dealers to redeem certain empty beverage containers rather than in the activity performed by the redemption center.

34.4(2) Nothing in the Act or this chapter prevents a person from establishing a redemption center that has not been approved by the executive director. However, an unapproved redemption center does not relieve any dealer of the responsibility to refund the deposit to the consumer upon presentation of an empty beverage container.

34.4(3) *Contents of application for approval.* An application for approval of a redemption center shall be on form LQ 38 or on 8½ x 11 inch paper that contains the following information:

a. Name, address and phone number of the person or persons responsible for the establishment and operation of the redemption center;

b. The address and phone number, if in service, of the redemption center;

c. The kinds, sizes, and brand names of the beverage containers which will be accepted at the redemption center;

d. The names and addresses of the dealers to be served by the redemption center and the written consent of those dealers to be served by the redemption center;

e. Distance, in blocks or other appropriate measure, from the redemption center to each dealer to be served by the redemption center;

f. The names and addresses of the distributors whose beverage containers will be redeemed;

g. The hours the redemption center is to be open;

h. Whether metal or glass beverage containers will be crushed or broken and, if so, the written consent of the distributor or manufacturer to the crushing or breaking;

i. Reasons why the dealer and redemption center believe that the center will provide a convenient service to consumers.

34.4(4) An order of the executive director approving a redemption center shall not authorize a redemption center to accept and pay the refund value of beverage containers purchased from Iowa state liquor stores.

34.4(5) A dealer served by an approved redemption center must prominently post on the premises of the dealer the location and hours of the redemption center.

400—34.5(67GA,Ch1162) Redeemed containers — use. Distributors are requested to inform the executive director of the intended ultimate use or disposal of redeemed beverage containers. The commission encourages the reuse or recycling of empty beverage containers and the department will assist distributors in finding and examining alternatives to burial of empty containers in sanitary landfills.

400—34.6(67GA,Ch1162) Rules relating to alcoholic liquor containers purchased from state-owned liquor stores.

34.6(1) *Labeling.* Effective May 1, 1979, all alcoholic liquor containers (except alcoholic liquor containers sold to holders of class "A", "B" or "C" liquor control licenses) sold by state-owned liquor stores will have the following label affixed to the container:

34.6(2) *Mandatory deposit.* Effective May 1, 1979, the consumer (other than the holder of a class "A", "B" or "C" liquor control license) will be charged a five cent deposit on each alcoholic liquor container sold at a state-owned liquor store.

34.6(3) *Refund.* Alcoholic liquor containers bearing the label described in 34.6(1) may be redeemed only at state-owned liquor stores. Alcoholic liquor containers bearing the label described in 34.6(1) shall not be redeemed by an approved or unapproved redemption center or by a dealer other than the Iowa beer and liquor control department.

400—34.7(67GA,Ch1162) Redeemed containers must be reasonably clean. Consumers should take care to return containers in a reasonably clean condition. In order to be redeemed, an empty beverage container shall be free of materials, such as paper, sticks and cigarette butts, other than the residue of the beverage.

400—34.8(67GA,Ch1162) Interpretive rules.

34.8(1) *Beverage containers "sold" on interstate carriers.* It is common practice for interstate carriers to provide or sell soft drinks, beer, or alcoholic liquor to passengers for consumption on the conveyance. Such containers are not a litter problem and their return would be impractical. Since statutes should be construed to avoid a strained or impractical result, the commission believes that control of the beverage containers "sold" on interstate carriers is beyond the objectives sought to be obtained by the Act and that these containers are not subject to the deposit and labeling requirements of the Act.

34.8(2) *Beverage containers must be reasonably intact.* In order to be redeemed, an empty beverage container must be returned reasonably intact. For a refillable beverage container, the container must hold liquid, be able to be resealed and be in its original shape. A nonrefillable glass container may be chipped, but it may not have the bottom broken out or the neck broken off. A nonrefillable metal container may be dented or partially crushed, but may not be crushed flat. A returned beverage container should be able to stand on its own base. (Reason: Section 2.2 of the Act provides in part:"A dealer or person operating a redemption center may compact empty metal beverage containers with the approval of the distributor required to accept such containers." So far as metal beverage containers are concerned, such right of approval in the distributor would be meaningless if the dealer were required to accept and redeem crushed metal beverage containers from consumers. Since there appears to be no reason to treat distributors of nonrefillable glass beverage containers different than distributors of metal beverage containers, there is presumably a corresponding right in the distributors of nonrefillable glass beverage containers to approve the destruction of the containers.)

34.8(3) *Vending machines.*

a. When a beverage container is dispensed from a vending machine in exchange for money, there is presumed to be a "sale of a beverage in a beverage container to a consumer" within the meaning of 34.2(13). Therefore some person must be the "dealer" who is responsible for collecting the deposit at the time of sale and for refunding the deposit upon return of the empty beverage container. Because of the variety of contractural relationships surrounding operation of a vending machine, the person who is the "dealer" might be the owner of the vending machine, the lessee of the vending machine, the owner of the premises on which the vending machine is located, or the person who stocks the vending machine. It is incumbent upon the parties involved in the operation of a vending machine to determine the person who is the "dealer" and to indicate prominently on the vending machine the name, location and normal operating hours of the dealer (or an approved redemption center) if the dealer does not have personnel on the premises.

b. If the vending machine is located on premises where personnel of the dealer are not normally working, there is no obligation to provide personnel to redeem beverage containers at the site of the vending machine. However, the "dealer" must provide for redemption of beverage containers at the dealer's usual working place.

34.8(4) *Transfer tanks, premix tanks and beer kegs.* Because transfer tanks, premix tanks and beer kegs (half-kegs, quarter kegs or pony kegs) are refillable, are returned to distributors and are not a litter problem, the commission believes that control of these containers is beyond the objectives sought to be obtained by the Act and that these containers are not subject to the deposit and labeling requirements of the Act.

[Filed 12/8/78, Notice 9/6/78—published 12/27/78, effective 1/31/79]

TITLE V
CHEMICAL TECHNOLOGY

CHAPTER 35
AGRICULTURAL CHEMICALS

400—35.1(455B) Use of DDT and DDD. Pesticides containing dichloro diphenyl trichloroethane (DDT) or dichloro diphenyl dichloroethane (DDD) shall not be distributed,

TITLE XXVI
LICENSING BOARDS

CHAPTER 135
MEDICAL EXAMINERS

CHAPTER 136
PHYSICIANS' ASSISTANTS

CHAPTER 137
PHYSICAL THERAPY EXAMINERS

CHAPTER 138

PHYSICAL THERAPY
CONTINUING EDUCATION

CHAPTER 139
PODIATRY EXAMINERS

CHAPTER 140
BOARD OF PSYCHOLOGY EXAMINERS

DISCIPLAINATY PROCEDURES FOR PSYCHOLOGISTS

At its December 11th meeting, the Administrative Rules Review Committee voted the following objection.

The Committee objects to paragraph 470—58.27(3)"*b*", appearing in the November 29th issue of the IAB, page 735, on the grounds that it is beyond the authority of the department. In essence the paragraph denies the care review committees established by §135C.25, 1977 Code, any access to a patient's financial records. The committees are empowered by §135C.38, 1977 Code, to investigate complaints, no restrictions are imposed as to what complaints they may handle; nevertheless, the department's action would preclude the committees from investigating any alledged fiscal mismanagement or fraud. The statute contemplates care review committees which may operate independently of the department, and which have broad authority to investigate complaints. The department may not by rule narrow the scope of investigation.

whether types of tasks given residents are in accordance with the physician's orders and whether resident employees may receive remuneration, consideration of the resident's personal and social needs, situations affecting resident's welfare and safety, absence of signs of malnutrition and dehydration, preservation of the highest level of independent functioning in relation to each individual's physical and mental capabilities, sanitation of the facility and grounds, that the physical structure of the facility contains no physical barriers which would prevent any resident from freely using the services of the facility or exiting to the outside. (Physical barriers preventing the exit from a facility shall not apply to remotely operated devices previously approved by the department for the safety of the residents.) (III)

e. The committee shall submit a report to the administrator at the conclusion of each meeting. (III)

f. The committee shall report to the department for counsel and guidance in situations where the administrator fails to acknowledge the intent of their findings and recommendations. (III)

g. The committee shall be available to meet with the department upon request. (III)

h. Any official agency will have the privilege of meeting with the committee to discuss problems in the facility pertinent to the agency's official capacity, providing that information exchanged is treated as privileged communication and is kept confidential in accordance with section 135C.19 of the Code. (III)

58.27(3) *Limitations of the committee.*

a. The medical treatment of the individual resident shall not be an area of concern for the care review committee. (III)

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

c. The committee shall not have access to confidential record of the resident prepared by the staff of the social services department. The person responsible for the social services shall be available to the committee to interpret the psychosocial needs of the individual. (III)

58.27(4) Reserved, 9/1/78.

58.27(5) Reserved, 9/1/78.

58.27(6) *Assistance to the committee.*

a. All physicians admitting residents to the facility shall have the responsibility of assisting the committee when necessary. (III)

b. The physician's certification of care shall be made available to the committee by the administrator. (III)

c. The licensee of the facility shall meet with the committee on a consultation basis and furnish information upon request to the committee. (III)

d. Committee members may seek advice and counsel from allied health professions, from specialists in the community, or from appropriate state agencies. (III)

*Objection filed 12/11/78, see insert IAC 12/27/78.

470—58.28(135C) Safety. The licensee of an intermediate care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

58.28(1) *Fire safety.*

a. All intermediate care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

58.28(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be posted. (III)

b. In-service shall be provided to insure that all employees are knowledgeable of the emergency plan. (III)

58.28(3) *Resident safety.*

a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)

b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)

c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

d. Smoking shall be permitted only in posted areas. (II, III)

e. Each resident shall receive adequate supervision to insure against hazard from himself, others, or elements in the environment. (II, III)

470—58.29(135C) Resident care.

58.29(1) There shall be a readily available supply of self-help and ambulation devices such as wheelchairs, walkers, and such other devices maintained in good repair that will meet the current needs of all residents. (III)

58.29(2) The facility shall assure that each ambulatory resident has well-fitting shoes to provide support and prevent slipping. (III)

58.29(3) Equipment for personal care shall be maintained in a safe and sanitary condition. (II, III)

58.29(4) The expiration date for sterile equipment shall be exhibited on their wrappings. (III)

58.29(5) Residents who have been known to wander shall be provided with appropriate means of identification. (II, III)

58.29(6) Electric heating pads, blankets, or sheets shall be used only on the written order of a physician. (II, III)

470—58.30(135C) Protective devices.

58.30(1) Protective devices shall be applied only when necessary to prevent injury to the residents or to others and shall be employed only when alternate measures are not sufficient to accomplish this purpose. (II)

58.30(2) Locked restraints, leather restraints, strait jackets, or being restrained behind locked doors shall not be permitted. (II)

58.30(3) A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in his or her room. (II, III)

58.30(4) Divided doors shall be of such type that when the upper half is closed the lower section shall close. (III)

58.30(5) Methods of protective devices shall permit rapid removal of the resident in the event of fire or other emergency. (II)

58.30(6) No form of protective device shall be used or applied in such a manner as to cause injury to the resident. (II)

470—140.5(154B) Educational qualifications for licensing.

140.5(1) The doctorate degree in psychology shall mean a doctorate degree granted by a department of psychology in an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association in other regions of the United States.

140.5(2) The board shall consider a doctorate degree offered by an academic unit other than a department of psychology provided:

a. The aforementioned academic unit is in, or formally connected with, an institution accredited as specified in this rule to offer the doctorate degree, and,

b. The dissertation for the degree is psychological in method and content, and,

c. At least fifty semester hours (or seventy-five quarter hours) of the course credits required for the degree, have successfully been earned in graduate courses which are predominantly psychological in content and cover such areas as: Developmental psychology, social psychology, psychology of personality, abnormal psychology, psychological diagnosis and assessment, psychological research methodology, and psychological statistics. Such credits may, in part, be earned in postdoctoral course work from an institution meeting the requirements of subrules 140.5(1) or 140.5(2)"*a*".

140.5(3) Equivalence of course work taken outside departments of psychology to course work in departments of psychology shall be determined, in part, by the psychological content of the courses taken irrespective of title and the professional qualifications of the instructor. The burden of proof for equivalency is upon the applicant.

140.5(4) The master's degree in psychology is defined as the master of arts or science offered by a department of psychology in an institution accredited as in subrule 140.5(1) to offer the master's degree.

140.5(5) The board shall consider a master's degree offered by an academic unit other than a department of psychology provided:

a. The degree is from an academic unit in an institution as specified in subrule 140.5(1) and is from an academic unit that is similar to a department of psychology with respect to its faculty, degree programs, and curriculum. In either case, it shall be further required that:

b. At least thirty semester hours (forty-five quarter hours) of the credits required for the degree shall have been successfully earned in graduate courses which are predominantly psychological in content and include the areas of psychology and equivalence guidelines mentioned in subrule 140.5(2)"*c*". Such credits may, in part, be earned in postmaster's degree course work from an institution meeting the requirements of subrule 140.5(1).

140.5(6) The accreditation of the degree-granting institution(s) shall be evaluated by the board with respect to the time of the applicant's affiliation with such institution(s). The same shall apply to other institutional aspects stipulated in this rule.

140.5(7) A degree from a foreign university will be accepted provided that the institution meets standards equivalent to those held by approved domestic institutions.

140.5(8) An applicant who has received a doctorate meeting the requirements of subrule 140.5(1) or 140.5(2) in a doctoral program that does not offer the master's degree shall be considered to have received a master's degree at the time the applicant has met the requirements of subrule 140.5(5).

140.5(9) An applicant who has received a specialist degree in psychology shall be considered to have met the requirements for a master's degree in psychology provided the specialist degree program has met the requirements of subrule 140.5(5).

This rule is intended to implement section 154B.6(1) of the Code.

470—140.6(154B) Professional employment experience.

140.6(1) To meet the requirements for "professional employment experience," an applicant's employment experience must:

a. Have involved the application of psychological principles such as defined in the "Practice of Psychology", (chapter 154B), and,

b. Have been performed competently at a professional level, and,

c. Have been appropriately supervised as is specified in subrule 140.6(9) of this rule.

140.6(2) As a general criterion, such employment experience will include tasks and judgments which depend upon the application of skill or knowledge made available to the applicant during formal education in psychology.

140.6(3) Employment experience which is offered to satisfy one provision of the law may not be simultaneously offered to satisfy the educational provisions of the law. For example, employment experiences which are part of the required preparation for the doctor of philosophy degree will be applicable only to the "doctorate degree requirements" and may not be simultaneously offered to satisfy the "employment experience" requirement.

140.6(4) Professional employment experience acquired by the applicant between the time all requirements were fulfilled for the graduate degree and the time of the actual conferral of the degree may be credited toward the employment experience requirements for licensing, provided that the date of completion of all degree requirements is verified in writing by an appropriate academic official. Such verification must come directly to the board from the academic official.

140.6(5) Employment experience of any kind gained prior to meeting the educational qualifications for licensing found in rule 470—140.5(154B) will not apply to the provisions of the law concerning professional employment experience.

140.6(6) Predoctoral employment experience that meets the requirements of subrules 140.6(5) and 140.6(7) will be considered "professional employment experience" unless the employment experience was part of a doctoral training program such as an internship, assistantship, practicum, or personal therapy.

140.6(7) In the event that the employment experience being offered can be considered the performance of some other profession or discipline as well as psychology, the board will consider such employment experience acceptable if it meets such criteria as listed in subrule 140.6(1).

140.6(8) "A year of professional employment experience" shall mean twelve months, including regularly scheduled vacation periods, during which the applicant was employed on a full-time basis.

a. In the case of academic employment, "year" shall mean the period normally associated with the full-time employment at the employing institution.

b. Full-time employment for self-employed applicants shall mean at least 1800 hours during a twelve-month period.

c. Part-time employment experience credit shall be determined by the board on a prorated basis.

140.6(9) Supervisors must be licensed psychologists in the state of Iowa or licensed in another state having comparable licensing requirements at the time of supervision. The supervision must meet the following criteria:

a. The supervisor regularly reviewed the psychological practice of the supervisee.

b. The supervisor and the supervisee met on a face-to-face basis and discussed matters pertinent to the psychological practice for a minimum of one hour on at least a biweekly basis. From and after January 1, 1980 the supervisor and the applicant shall meet for a minimum of one hour at each meeting and averaging at least one meeting per week.

c. Documentation acceptable to the board indicating that the applicant has met the requirements of this rule and has performed in a professional, competent, and ethical manner must be submitted.

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

470—140.7(154B) Waiver of examinations.

140.7(1) Persons applying for licensing under the waiver provisions of the law must so specify in their application and need not meet the application deadlines specified in rule 140.4(154B).

140.7(2) Determination of psychological practice will be based on the professional experience requirements aforementioned in rule 140.6(154B).

470—140.8(154B) Examinations.

140.8(1) The examination may be composed of three sections:

a. A written, objective section,

b. A written, essay examination,

c. An oral examination conducted by the board or its duly constituted representative(s).

140.8(2) In order to qualify for licensing, the applicant will be required to perform satisfactorily on all required sections of the examination.

140.8(3) Examination dates will be announced by the board. The schedule for the written examination will establish the time, place, the final date by which the board must

receive the applicant's written intention to be examined, and other pertinent information or instructions. The examination fee is sixty dollars and is to be paid by check or money order to the Iowa State Department of Health.

140.8(4) An applicant who fails to appear for the scheduled examination will forfeit the examination fee unless an explanation acceptable to the board is provided in writing not later than fifteen days after the examination.

140.8(5) Application for any required examination will be denied or deferred if the applicant lacks the required education or supervised experience.

140.8(6) An oral examination, if required, will be scheduled only for those applicants who pass the written examination(s).

140.8(7) The board will notify the applicant in writing of examination results.

140.8(8) Persons determined by the board not to have performed satisfactorily may reapply without examination fee for the next scheduled examination. An applicant may reapply for examination only once unless the board decides otherwise due to unusual circumstances in the case.

This rule is intended to implement section 147.80 of the Code.

470—140.9(154B) License renewal.

140.9(1) At least two months before the renewal date, a renewal notice will be sent to each license holder at the last address in the board's file. Failure to receive such notice shall not relieve the license holder of the obligation to pay renewal fees on or before the renewal date. The yearly renewal fee is twenty dollars.

140.9(2) Annual renewal fees shall be received by the board on or before the end of the last month of the fiscal year. Whenever renewal fees are not received as specified, the license lapses and the practice of psychology must cease until all renewal fees are received by the board.

470—140.10(154B) Suspension and revocation.

140.10(1) The board may recommend that the attorney general petition the district court of the county in which a licensee resides for suspension or revocation of licenses. The recommendation is to be based on one or more of the acts or offenses specified in section 147.55 of the Code.

140.10(2) Acts or offenses in violation of the code of ethics will be considered by the board to be "unethical conduct" specified in subsection 3 of section 147.55 and prompt the recommendation mentioned in subrule 140.10(1).

140.11 to 140.99 Reserved.

PSYCHOLOGY CONTINUING EDUCATION

470—140.100(67GA,Ch95) Definitions. For the purpose of these rules, the following definitions shall apply:

140.100(1) *"Board"* means the board of examiners for psychology.

140.100(2) *"Licensee"* means any person licensed to practice psychology in the state of Iowa.

140.100(3) *"Hour"* of continuing education means a clock-hour spent after December 31, 1978 by a licensee in actual attendance at and completion of an approved continuing education activity. Graduate level psychology courses offered by a department of psychology in a regionally accredited university are defined as the equivalent of fifteen continuing education hours for one semester-hour credit or ten continuing education hours for one-quarter hour credit.

140.100(4) *"Approved program or activity"* means a continuing education program activity meeting the standards set forth in these rules which has received advance approval by the board pursuant to these rules.

to disciplinary proceedings shall be transmitted to the appropriate professional association, the news media and employer.

470—140.212(67GA,Ch95) Suspension, revocation, or probation. The board may revoke or suspend a license, or place a licensee on probation for any of the following reasons:

140.212(1) All grounds listed in section 147.55 of the Code which are:

a. Fraud in procuring a license.

b. Professional incompetency.

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

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

e. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect his or her ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

f. Fraud in representations as to skill or ability.

g. Use of untruthful or improbable statements in advertisements.

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

140.212(2) Violation of the rules promulgated by the board.

140.212(3) Personal disqualifications:

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

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

140.212(4) Practicing the profession while the license is suspended.

140.212(5) Suspension or revocation of license by another state.

140.212(6) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

140.212(7) Prohibited acts consisting of the following:

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

b. Permitting another person to use his or her license for any purpose.

c. Practice outside the scope of a license.

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

e. Verbally or physically abusing clients.

f. Any sexual intimidation or sexual relationship between a psychologist and a client.

140.212(8) Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying client's records.

140.212(9) Failure to report a change of name or address within thirty days after it occurs.

140.212(10) Submission of a false report of continuing education or failure to submit the annual report of continuing education.

140.212(11) Failure to notify the board within thirty days after occurrence of any judgment or settlement of a malpractice claim or action.

140.212(12) Failure to comply with a subpoena issued by the board.

140.212(13) Failure to report to the board as provided in rule 470—140.201 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

470—140.213(67GA,Ch95) Peer review committees.

140.213(1) Each peer review committee for the profession, if established, may register with the board of examiners within thirty days after the effective date of these rules or within thirty days after formation.

140.213(2) each peer review committee shall report in writing within thirty days of the action, any disciplinary action taken against a licensee by the peer review committee.

140.213(3) The board may appoint peer review committees as needed consisting of not more than five persons who are licensed to practice psychology to advise the board on standards of practice and other matters relating to specific complaints as requested by the board. The members of the peer review committees shall serve at the pleasure of the board. The peer review committees shall observe the requirements of confidentiality provided in Acts of the Sixty-seventh General Assembly, chapter 95.

470—140.214(67GA,Ch95) Immunity. A person shall not be civilly liable as a result of filing a report or complaint with a licensing board or peer review committee, or for the disclosure to a licensing board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of a health care board. However, such immunity from civil liability shall not apply if such act is done with malice.

These rules implement Acts of the Sixty-seventh General Assembly, chapter 95, sections 4, 5 and 6.

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MENTAL HEALTH AUTHORITY[567]

CHAPTER 1
AGENCY ORGANIZATION

567—1.1(225B,230A) Definitions. Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

1.1(1) *"Affiliate"* means an organization which has an agreement with a center for the delivery of one or more of the center's service elements.

1.1(2) *"Agency"* means the Iowa mental health authority.

1.1(3) *"Center"* means a community mental health center which is established pursuant to section 230A.1 of the Code, which receives continued partial county funding and offers at least diagnostic and treatment services on an outpatient basis and offers consultation and education services.

1.1(4) *"Committee"* means the committee on mental hygiene within the Iowa mental health authority.

1.1(5) *"Director"* means the director of the Iowa mental health authority.

1.1(6) *"Standards"* means the Principles for Accreditation of Community Mental Health Centers in Iowa, Iowa mental health authority, March, 1978.

567—1.2(225B,230A) Organization. The agency was created to direct the benefits of Public Law 487, 79th Congress of the United States and amendments thereto.

1.2(1) *Responsibilities.* Responsibilities of the agency include at least:

a. Preparation of the 314(d) State of Iowa Plan for Mental Health Services.

b. Preparation of the 314(d) annual report.

c. Program consultant for Comprehensive Community Mental Health Construction Grants (PL 88-164).

d. Consultant for Comprehensive Community Mental Health Center Staffing Grants (PL 89-105; PL 91-211).

e. Consultant for Comprehensive Specialized Services Staffing Grants including Alcohol, Drugs, Children (PL 91-211).

f. Preparation of statistical reports for National Institute of Mental Health.

g. Iowa liaison with Department of Health, Education, and Welfare, Region VII office.

h. Iowa liaison with Central Office, National Institute of Mental Health.

i. Liaison with other statewide public and private agencies and organizations relating to community mental health programs and services (promotion of co-ordination).

j. Administration of federal and state funds.

k. Administrative and professional consultation to centers.

l. Development and implementation of standards for centers.

m. Development and administration of a statistical reporting system for centers.

n. Administrative and professional consultation of research and educational activities of centers including a central repository for information regarding community mental health services.

o. Administrative and professional consultation to Community Mental Health Centers Association of Iowa, Inc. and its standing and ad hoc committees.

p. Administrative and professional consultation to Iowa communities in the development of or affiliation with an Iowa center.

q. Administrative and professional consultation with local communities regarding supporting human services for community mental health services and programs.

1.2(2) *Program areas.* Program areas within the agency which have been created to assist in carrying out agency responsibilities include:

a. Community services. This program area approves the establishment of such services; provides technical assistance to these organizations in seeking county, state and federal funds for program expansion and facilities construction; and provides consultation to public bodies (i.e., boards of supervisors) in expanding existing services, and developing new services.

b. Accreditation and standards. This program area establishes statewide standards for center governance, administration and services; provides review and evaluation of centers; and makes recommendations to the committee regarding accreditation of centers.

c. Information systems and program evaluation. This program area establishes a statewide data system for such services; establishes internal information systems for such services; designs data systems components to be used in administrative, planning and clinical settings; determines the research designs to be used for program evaluation of community mental health services; measures characteristics related to explicitly established sets of values regarding service delivery; and undertakes appropriate systems changes based on program evaluation.

d. Continuing education. This program area designs continuing education programs for administrative, clinical and clerical staff; designs continuing education programs for members of boards of directors; implements a special federal grant to provide interpersonal skills training to professional and nonprofessional service providers.

e. Health planning. This program area develops and administers the state of Iowa Plan for Mental Health Services; designs effective working relationships to implement the plan's components on a statewide basis; and undertakes research and demographic studies to provide information to establish alternative forms of service delivery.

1.2(3) *Request for or submission of information.* Information concerning the agency which is not described in these rules may be obtained by writing the Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319. Concerned parties wishing to submit or request other types of information may write to the above mentioned address.

1.2(4) *Director-named.* The director of the agency is named by the state board of regents with the advice of the dean of the college of medicine, University of Iowa, and the committee.

1.2(5) *Director-duties.* The duties of the director include at least:

a. Employ, supervise, evaluate and discharge agency personnel.

b. Supervise, co-ordinate, monitor and evaluate activities of the agency and the utilization of resources.

c. Plan agency activities and allocate personnel and financial resources to accomplish agency functions.

d. Prepare an annual operating budget showing the expected receipts and expenditures and expend monies from time to time as needed within the approved budget.

e. Submit to the committee periodic reports showing professional service and financial activities of the agency, and prepare and submit special reports as may be required by the committee.

f. Make an annual report to the board of regents, the governor, and the legislature, to be submitted on September 1 or as soon thereafter as practicable, covering the annual period ending on the preceding June 30.

g. Attend all meetings of the committee.

h. Serve as liaison officer and channel of communications for all official communications between the agency and all other agencies and organizations related to mental health.

i. Carry out all functions and duties assigned by law and delegated by the committee.

567—1.3(225B,320A) Committee. There is a fifteen-member committee on mental hygiene established within the agency. The members include the director of the psychiatric hospital at Iowa City, the commissioner of the state department of health, the dean of the college of medicine at the University of Iowa, a member of the state board of regents appointed by the board, the commissioner of the state department of social services, the director of mental health of the state department of social services, a member of the state board of public instruction appointed by the board, and eight members appointed by the governor. The appointive members by the governor are one from the membership of the subcommittee on nervous and mental disease of the Iowa medical society, one from the membership of the

Iowa psychiatric society, two from the membership of the boards of directors of the Iowa centers, one from the membership of the Iowa association for mental health, one from the membership of the Iowa society of osteopathic physicians and surgeons, and one from the membership of the Iowa association for retarded citizens.

1.3(1) *Terms.* The appointive members of the committee serve for terms of three years beginning July 4 of the year of appointment. Vacancies are filled for the unexpired term in the same manner as original appointment.

1.3(2) *Meetings.* The committee holds an organizational meeting on the first Monday in July each year in Iowa City. Other meetings are determined by the committee and are held at least once in each four-month period. The committee keeps minutes of its meetings. Two-thirds of the membership shall constitute a quorum. A majority vote shall be required for committee action. Both the meetings and the minutes are open to the public.

1.3(3) *Organization.* A chairperson and other officers are chosen at the annual organizational meeting of the committee. Special subcommittees from time to time may be appointed by the chairperson of the committee for special tasks that are needed or desirable for the conduct of the affairs of the committee.

1.3(4) *Responsibilities.* The committee is responsible for:

a. Developing and maintaining policies and procedures pertaining to the organizational structure, governance and operation of the agency.

b. Recommending the naming and the removal of the director to the dean of the college of medicine at the University of Iowa.

c. Conducting a performance appraisal of the director on an annual basis.

d. Providing administrative and logistical services necessary to support the performance of the director and agency functions.

e. Authorizing and approving grants and contracts to which the agency is party.

f. Reviewing and approving the agency annual budget, state of Iowa Plan for Mental Health Services, standards and other programs.

g. Reviewing the annual report.

h. Reviewing policies and programs of governmental agencies relating to mental health, when requested to do so by legally responsible persons.

i. Approving agency recommendations regarding accreditation of centers.

These rules are intended to implement the following sections of the Code: 17A.3, 17A.4; 225B.1, 225B.2, 225B.3, 225B.4, 225B.7; 230A.16, 230A.17, 230A.18.

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CHAPTER 2
GUIDELINES FOR GRANTS-IN-AID

567—2.1(225B) Purpose. The agency grants-in-aid program was established as a mechanism to assist the centers of Iowa and their affiliates to achieve several community services objectives. Those objectives include: The expansion of mental health services to all ninety-nine counties; the evaluation of the effectiveness and efficiency of mental health programs; the further development of existing services consistent with the design of health planning agencies; the refinement of the managerial policies and procedures of the centers; and the production of quality research in the centers.

2.1(1) *Eligibility.* Agency grants are available to three categories of applicants. Any accredited center of Iowa, is eligible to receive funds through the agency grant program. Any formal affiliate of a center is eligible for agency grant funds. An affiliate must submit applications through the center. Other mental health organizaitons are, also, eligible for agency grant funds. First consideration, however, will be given to proposals submitted by the centers and their affiliates.

2.1(2) *Award limit financial administration.* An award limit of $10,000 shall be set for each applicant, regardless of the number of proposals, to insure available funding for several relevant projects each fiscal year. Should a center and its affiliate submit proposals, the funding requests shall be subject to the $10,000 limit. Funds may be awarded to cover costs of new staff salaries and fringe benefits, travel, training, materials, other costs; and existing staff salaries and fringe benefits that are directly related to the project. Funds will not be awarded for the construction, improvement, or purchase of buildings or the purchase of equipment or real estate. Income derived from the grant projects will not be used to reduce the agency grant award. Awards are made for the fiscal year, however, the funds are distributed in total prior to the beginning of the fiscal year. Grant funds not expended at the end of the fiscal year shall be returned to the agency. Applicants receiving awards are subject to the audit policies of the state of Iowa and the federal government.

567—2.2(225B) Funding priorities. For review purposes, grant proposals are separated into seven categories, according to the type of project. The categories are: Uncovered counties, program evaluation, prevention, education, consultation, management services, and clinical services. This listing also represents the funding priorities of the committee and the agency. It is possible that a project would fall into more than one category. For example, education activities could be conducted in an uncovered county. In this case, the project would be considered in the highest priority category. Funding decisions, however, are not based on priorities alone. The unique program needs of the individual centers are also seriously considered, as is the quality of the proposal. The committee and the agency are particularly interested in funding projects which involve close co-ordination and collaboration with the agency or involve two or more centers in a joint project; or offer the possibility of future utilization at the other centers in the state.

567—2.3(225B) Project types. The following information elaborates project type categories:

2.3(1) *Uncovered counties:* Projects in this category would involve both educative and consultative activities in an uncovered county and direct clinical services begun with "start up" funds for such a county. Grants for "start up" funds in the amount of $5,000 are available to centers to begin service delivery in previously uncovered counties. These grants will continue to be awarded with the submission of a request from the board(s) of supervisors of the respective county(ies) at the time the request is made. These grants are subject to regular project review procedures.

2.3(2) *Program evaluation.* Program evaluation is a type of applied research in which program process and outcome characteristics are related explicitly to a set of values, such as program goals, objectives, and costs. Program evaluation is intended to improve services by increasing the quality and availability of information used for management decision making, for shaping services, and by making services more responsive to the needs of clients and catchment area residents. Ideally it should be co-ordinated with other ameliorative efforts such as continuing education, management supervision, and careful fiscal management, and designed to contribute to program planning and other aspects of management. Such projects might address some of the following topics:

a. The cost of center operation by units or major types of direct and indirect services.

b. The numbers and rates of catchment area residents using center services, by service elements and client characteristics (e.g., age, sex, etc.).

c. Awareness of services by the population and community caregivers.

d. Acceptability of services to community residents.

e. Accessibility of service; temporal, geographic, financial and psychosociological.

f. Impact of the indirect service of consultation and education in attaining program goals.

g. Effectiveness in reducing inappropriate institutionalizations.

h. The impact of center services on mental health and related problems.

i. The development of peer review, utilization review or medical audit procedures for the

evaluation of the quality and effectiveness of services.

2.3(3) *Prevention.* Projects in this category often involve consultation/education activities. To be considered preventative in nature, however, such activities are usually directed toward individuals who are at risk for the development of mental health problems or at the alleviation of factors precipitating mental health problems. The "clients" of prevention projects generally, have not entered the mental health delivery system at the time of the intervention.

2.3(4) *Education.* A project in this category has at least two major functions. First, its goal is to increase the visibility, identifiability, and accessibility of the center for all residents of the catchment area. A center cannot serve as an effective community resource if large segments of the population are unaware of its purposes, its functions, its location, or its relevance to community needs. A second major goal of an educational project is to promote mental health and to prevent emotional disturbance through the distribution and dissemination of relevant mental health knowledge.

2.3(5) *Consultation.* A project in this category involves the provision of mental health assistance, by qualified personnel, to a wide variety of community agents and caregivers, including, but not limited to, schools, courts, police, clergy, and health care personnel such as physicians and public health nurses. In case consultation this may take the form of collaboration with community agents, enabling them to deal effectively with certain of their clients.

2.3(6) *Management services.* A project in this category places emphasis on the organization's ability to improve operating functions within the center and among affiliates. The utilization of management firms, university departments providing management engineering techniques and state or national associations are appropriate. Demonstration of the ability to apply the results of such work in other centers via the agency is strongly encouraged.

2.3(7) *Clinical services.* A project in this category would expand the center's existing services. The expansion could entail increased staff time, the addition of professional disciplines to the staff, the addition of treatment modalities or the addition of service elements.

567—2.4(255B) Application.

2.4(1) *Grant cycle.* The agency will announce in written form to the executive directors of the centers the opening of the application period two months prior to the deadline date for letters of intent. Present grant guidelines will be included in the announcement. Eligible applicants interested in submitting a grant proposal should first submit a letter of intent through the center executive director to the agency.

2.4(2) *Letter of intent.* Letters of intent should be approximately two single spaced typewritten pages outlining the objectives, activities, timetable of implementation, project outcome and estimated budget of the project. Letters of intent postmarked after the deadline will be considered ineligible. As letters of intent are received the applicant will be contacted by the consultant who co-ordinates the grants-in-aid program, to acknowledge receipt of the letter of intent, to clarify issues raised in the letter of intent, to make suggestions for the actual proposal, and to offer agency consultation services in developing the actual proposal.

2.4(3) *Out-of-cycle proposals.* The centers are encouraged to submit grant proposals within the grant cycle. Should a center wish to submit a proposal after the grant cycle is complete, it may do so. Based on the availability of funds and the type of project, the agency will notify the applicant as to whether the project can be funded outside the grant cycle or whether it should be included for consideration in the following year's grant cycle.

567—2.5(225B) Grant proposal. Applicants wishing to submit a grant proposal shall submit the proposal through the center executive director to the agency. Those wishing to submit rough drafts of proposals prior to the deadline for submission of final proposals for

review and comment may do so. Final proposals postmarked after the deadline date will be considered ineligible. Final proposals should include the following components. Subrules 2.5(6-8) can be incorporated in a work plan.

2.5(1) Project title.

2.5(2) Project abstract or summary.

2.5(3) The names and addresses of cosponsoring agencies.

2.5(4) Background information establishing the need for the project.

2.5(5) The objectives of the project with a discussion of their relationship to the need for the project. Objectives are a statement of hoped for results; they are not activities. They should be measurable.

2.5(6) The plan of actual activities, methods or procedures intended to achieve the objectives of the project.

2.5(7) The identification of the personnel responsible for accomplishing the activities.

2.5(8) The timetable for accomplishing the activities.

2.5(9) The plans for evaluation of the activities.

2.5(10) The budget breakdown of the costs of the project.

2.5(11) Letters of endorsement from cosponsoring agencies or agencies favorable to the project.

2.5(12) The tentative plans for continuation of the project.

2.5(13) The following signed assurances:

a. The center does not discriminate in the admission of clients for services, employment of personnel, or in any other respect, on the basis of race, color, sex, religion, national origin, ancestry, age, creed or disability.

b. The center holds all information and records, including lists of client names and addresses, confidential. Such information and records will be limited to purposes directly related to the administration of the grant project. Such information may not be released without the consent of the individual to whom the information applies, or his/her legal representative.

c. Authority for the administration of center policies and programs has been delegated to a full-time executive director.

d. A physician has assumed medical and legal responsibility for all medical services.

e. The professional staff of the center meet state licensure requirements approriate for their discipline.

567—2.6(225B) Proposal review. Grant proposals will be reviewed and evaluated by three members of the agency staff, including the grant consultant. The committee may elect to form a subcommittee for review and evaluation of the proposals. If a formal subcommittee is not formed, two or three interested members of the committee will be asked to review and evaluate the proposals. The agency staff and the committee representatives will compare individual proposal evaluations, with the goal of developing recommendations for funding. These recommendations will be presented to the committee at the spring meeting. The committee will make the awards at the spring meeting, which will be announced to the applicants shortly thereafter.

567—2.7(225B) Project review. Funded grants will be reviewed midway through the projects and at their termination by the agency staff. This review will consist of an on-site visit at the midway point and the completion of a review document by the center at the project's termination.

567—2.8(225B) Agency assistance. The agency is interested in offering technical assistance and consultation to applicants at any of the various stages of the application or project implementation.

These rules are intended to implement the following sections of the Code: 17A.3; 225B.1, 225B.4.

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CHAPTER 3
STANDARDS

567—3.1(230A) Purpose. The primary purpose for the standards shall be to provide a mechanism to assist in the delivery of quality mental health services within a framework of accountability to the community.

567—3.2(230A) Functions. The standards shall function as an enabling mechanism by providing the agency with a uniform, objective basis for reviewing and evaluating center operations and programs; by providing a tool for assessing center structure, processes and outcomes; by providing a means for validating center eligibility for reimbursement for services delivered; by providing assurances to the community about the quality of mental health services; by facilitating greater community involvement and participation in the community mental health delivery system; by encouraging community mental health practitioners to function within a framework of accountability to the community; by providing a guide for the establishment, maintenance and operation of center service programs; and, by providing statements of service and organizational requirements to center governing boards, administrators, and employees/consultants.

567—3.3(230A) Definitions. The following definitions shall apply to the specific terms used in this chapter:

3.3(1) *"Affiliate"* means an agency which has a written agreement with the center for the delivery of one of the center's service elements, i.e., inpatient, partial hospitalization or emergency services.

3.3(2) *"Agency"* means the Iowa mental health authority which is a legal entity established under the auspices of chapter 225B of the Code; mandated by the Special Health Revenue Sharing Act of 1975; and chapters 225B and 230A of the Code to perform the following functions:

a. Establish, implement and evaluate the state plan for the delivery of mental health services.

b. Assist in the establishment and growth of centers and provide them with support in the areas of public information, information systems, consultation, program evaluation, research, and continuing education.

c. Develop and enforce standards for the maintenance and operation of centers.

3.3(3) *"Catchment area"* means a defined geographic area for which there is designated responsibility for the delivery of community mental health services to persons residing within the area.

3.3(4) *"Center"* means a community mental health center which is established pursuant to section 230A.1 of the Code, which receives continued partial county funding and offers at least diagnostic and treatment services on an outpatient basis and offers consultation and education services.

3.3(5) *"Chemotherapy"* means treatment of emotional disabilities by chemical substance.

3.3(6) *"Chief administrative officer"* means the individual appointed by the governing body to act in its behalf in the overall administration of a center. Job titles may include administrator, chief executive officer, director, executive director.

3.3(7) *"Clinical care"* means those diagnostic and treatment services which are provided to center consumers by clinical mental health professionals.

3.3(8) *"Clinical mental health professionals"*, means individuals who meet the following requirements:

a. A current Iowa license if practicing medicine, or nursing or psychology.

b. At least a master's degree in psychology, counseling and guidance, mental health/psychiatric nursing, social work, or is an M.D. or D.O. eligible for certification by the American Board of Psychiatry and Neurology.

3.3(9) *"Consultation"* means the provision of mental health assistance, by qualified personnel, to a wide variety of community agents and caregivers, including, but not limited to schools, courts, police, clergy, and health care personnel. The two types of consultation referred to in the standards are:

a. Case-oriented consultation which are services designed to assist the consultee in providing services to a consumer(s).

b. Program-oriented consultation which are services provided to individuals or organizations to assist in the planning, development, implementation, and evaluation of programs.

3.3(10) *"Consumers"* means individuals who utilize the services of the mental health delivery system.

3.3(11) *"Continuing education"* means the process of updating, imparting, and acquiring new job-related knowledge, skills and attitudes through planned educational experiences beyond the individual's previous education and training.

3.3(12) *"Crisis service"* means the provision of immediate mental health care and evaluation of individuals in crisis situations on a twenty-four hour a day, seven day a week basis.

3.3(13) *"Documentation"* means the provision of written, dated and authenticated information i.e., minutes of meetings, memoranda, schedules, notices, announcements, service records.

3.3(14) *"Drug administration"* means an act in which a single dose of a prescribed drug or biological is given to a consumer by an authorized person in accordance with rules established pursuant to HF 2200 67GA 2nd Session. The complete act of administering entails removing an individual dose from a previously dispensed, properly labeled container, verifying it with the physician's order, giving the individual dose to the proper consumer and promptly recording the time and dose given.

3.3(15) *"Drug dispensing"* means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, the proper selection, measuring, labeling, packaging and issuance of the drug or biological for a consumer or for a service unit of the facility.

3.3(16) *"Education service"* means activities designed to promote mental health through the dissemination of relevant mental health information and designed to increase the visibility, identifiability and accessibility of center services to residents of the catchment area(s).

3.3(17) *"Employees/consultants"* means persons hired by a center to perform activities defined in job descriptions. Consultants are persons hired on a contractual basis; employees are persons hired on a noncontractual basis.

3.3(18) *"Facility"* means the physical area (grounds, building or portions thereof) where center program functions take place.

3.3(19) *"Goal"* means an operationally defined program outcome or end point that gives direction to the organization's efforts.

3.3(20) *"Governing body"* means the policy-making group that has the authority and responsibility for the overall operation of the center and center programs. Refers to either a board of directors or board of trustees.

3.3(21) *"Information system"* means any system of people, equipment, documents, procedures, and communication which gathers, stores, processes and presents information for the purpose of assisting managers with a variety of managerial functions.

3.3(22) *"Informed consent"* means agreement by an individual or legal guardian in consultation with the individual to participate in an activity based upon the understanding of:

a. A full explanation of the procedures to be followed, including an identification of those that are experimental.

b. A description of the attendant discomforts and risks.

c. A description of the benefits to be expected.

d. A disclosure of appropriate alternative procedures that would be advantageous for the individual.

e. An offer to answer any inquiries concerning the procedures.

f. An instruction that the individual is free to withdraw consent and to discontinue participation in the project or activity at any time.

3.3(23) *"Inpatient service"* means the provision of a therapeutic program for consumers requiring full-time care.

3.3(24) *"Intake/evaluation activities"* means activities designed to define, delineate, assess or evaluate a consumer's problems or needs; determine most appropriate service for the consumer; admit the consumer to the service; establish a service record for the consumer.

3.3(25) *"Medical care"* means those diagnostic and treatment services which, by law, can be provided only directly by a licensed physician or under the direction and supervision of a licensed physician.

3.3(26) *"Needs assessment"* means the use of a variety of indicators and measurement and research techniques to enumerate and estimate the extent of mental health needs and to prioritize them in order of importance according to some rational process.

3.3(27) *"Objective"* means specification of a measured amount of progress toward a particular goal and the period of time needed or desired for this progress to be accomplished; a situation or condition of people or the environment which is considered to be desirable in achieving a particular goal and which is expressed in quantifiable terms. An objective specifies what the nature of the situation or condition or condition to be attained is; the extent or quantity of the situation or condition to be attained; who the particular groups of people are (target); where the attainment is desired (geographic area); and when the desired situation or condition is intended to exist.

3.3(28) *"Outpatient services"* means the provision of mental health care to consumers who need to spend relatively little time at a center.

3.3(29) *"Partial hospitalization services"* means the provision of a planned therapeutic program to consumers which may include a full day, semiday, evening, night or weekend program.

3.3(30) *"Principle"* means a fundamental concept derived from a basic assumption drawn from prevailing goals and values. Principles are used to evaluate the quality of the system.

3.3(31) *"Program"* means a set of related organizations, resources or services directed to the accomplishment of a defined set of objectives or missions for a special target population or specified geographic area(s).

3.3(32) *"Program administration"* means the process of planning, organizing and directing the overall operations, resources and activities of a center to facilitate the attainment of goals and objectives.

3.3(33) *"Program evaluation"* means the process of determining the degree to which a program of the center is meeting its mission, objective and goals. It involves continuous assessment of resources and program activities in order to attain the objectives. Examples include quality assurance programs, information system monitoring, community satisfaction studies.

3.3(34) *"Program plan"* means a written plan for ensuring effective and efficient service delivery to the community. It is based on a needs assessment of the community and contains the following elements:

a. Goals and objectives of the program.

b. Services to be provided.

c. How the program will be monitored and evaluated.

3.3(35) *"Provider"* means an individual whose primary current activity is the provision of health/mental health care to individuals or the administration of facilities or institutions in which such care is provided.

3.3(36) *"Quality assurance"* means the process which ensures that the health care system delivers services that are appropriate, effective, efficient and acceptable.

3.3(37) *"Risk population"* means any segment of the general population identified as

having a high potential for emotional disabilities.

3.3(38) *"Screening"* means a preliminary activity which accomplishes the following purposes:

a. Delineation of consumer problems or needs.

b. Provision of information to consumers.

c. Determination of eligibility or suitability.

3.3(39) *"Service record"* means consumer identifying information; consumer assessment information; treatment plan; medication record; signed consent forms and release of information forms; progress notes and discharge plan.

3.3(40) *"Shall"* means a mandatory requirement.

3.3(41) *"Target population"* means the disability- and age-group specific segment of a risk population designated as the real or potential program recipients.

3.3(42) *"Verbal therapies"* means treatment activities which involve interaction between a trained mental health professional and an individual, family, couple, or group for the purpose of problem clarifications or counseling so as to increase awareness and modify behavior or mode of adaption.

567—3.4(230A) Standards for center board of directors' bylaws. The board of directors of a center established as a nonprofit corporation shall have written bylaws for its own guidance.

3.4(1) The bylaws state the number of directors.

3.4(2) The bylaws describe the qualifications of directors.

a. At least fifty-one percent of the directors are individuals who are not providers of health care.

b. There is representation of interested professions.

c. Directors are demographically representative of the catchment area population.

3.4(3) The bylaws describe procedures for appointment or election and removal of directors and officers.

3.4(4) The bylaws describe procedures for filling board vacancies.

3.4(5) The bylaws state the terms of directors.

a. Directors have staggered terms of office.

b. Directors are periodically replaced and serve no more than six consecutive elected years.

3.4(6) The bylaws designate required officers and terms of officers.

3.4(7) The bylaws establish the authority of the board of directors to do, or cause to be done by delegation to the chief administrative officer or others, any and all lawful things for and in behalf of the corporation.

3.4(8) The bylaws describe the powers of the board of directors.

a. The board determines center policies in relation to community, professional, administrative and financial needs.

b. The board appoints, evaluates and removes the chief administrative officer.

c. The board directs the chief administrative officer in carrying out center policies.

d. The board provides adequate financing and control of expenditures.

e. The board authorizes and approves contracts and agreements to which the center is party.

f. The board reviews and approves the center annual budget.

3.4(9) The bylaws describe powers and duties of officers.

3.4(10) The bylaws describe the executive committee.

a. Size and composition of the executive committee.

b. Powers and duties of the executive committee.

c. Time and place of meetings of the executive committee.

3.4(11) The bylaws describe standing and special committees.

a. Procedure for establishing said committees.

b. Size and composition of said committees.

c. Powers and duties of said committees.

3.4(12) The bylaws describe board meetings.

a. Time, place and notice of regular board meetings.

b. Time, place and notice of the annual board business meeting.

c. Time, place and notice of an annual public meeting for the purpose of providing information on board policies, presenting the mental health program and obtaining input from the community.

d. Procedures for conducting meetings.

(1) Definition of a quorum.

(2) Rules and order of business.

(3) Vote required for board action.

(4) Documentation of the board's activities (minutes).

3.4(13) The bylaws describe conflict of interest position.

a. Center employees/consultants do not serve on the board.

b. No director owns real property utilized by the center.

c. No director receives any compensation for his/her services in office, with the exception of reimbursement for actual necessary expenses incurred in the performance of his/her duties.

d. Should the board wish to purchase service from one of its members, the purchase will be approved by the board and the individual receiving the remuneration must divest him/herself from voting on the issue.

e. The board is empowered to define a nonfinancial conflict of interest situation involving its member(s); and to take action regarding the voting rights or the membership of the member(s) in question.

3.4(14) The bylaws describe the procedure to amend bylaws.

3.4(15) The bylaws describe the authorities and duties of the chief administrative officer.

a. The chief administrative officer manages and operates the center.

b. The chief administrative officer prepares an annual operating and capital budget showing the expected receipts and expenditures and expends monies from time to time as needed within the approved operating budget.

c. The chief administrative officer maintains all physical properties in a good state of repair and operating condition.

d. The chief administrative officer supervises the business affairs of the center to ensure that funds are collected and expended to the best possible advantage of the center.

e. The chief administrative officer submits regularly to the board of directors, or its authorized committees, periodic reports showing the professional service and financial activities of the center and prepares and submits such special reports as may be required by the board of directors.

f. The chief administrative officer attends all meetings of the board of directors.

g. The chief administrative officer serves as the liaison officer and channel of communication for all official communications between the board of directors or any of its committees and the center employees/consultants.

567—3.5(230A) Standards for center board of trustees' bylaws. The board of trustees of a center established as a form of county government shall have written bylaws for its own guidance.

3.5(1) The bylaws incorporate the standards enumerated in 567—3.4, subrules 1 to 15, Iowa Administrative Code.

3.5(2) The bylaws are consistent with chapter 230A of the Code.

567—3.6(230A) Standards for center employee/consultant input to the board. The governing body ensures input from center employees/consultants.

3.6(1) Discussions with center employees/consultants are held to exchange information and ideas about board policies and center programs. Such discussion should be

incorporated as part of a regular or special board meeting.

3.6(2) An annual discussion of center employees/consultants' satisfaction with the services of other human service providers and the co-ordination of services is held.

3.6(3) Board minutes document how center employees/consultants' input was treated consistent with organizational goals.

567—3.7(230A) Standards for orientation and education of center board members. The governing body orients and educates its members.

3.7(1) Board members are provided appropriate educational opportunities.

3.7(2) Board members are given a manual which includes current material.

a. Articles of incorporation.

b. Bylaws.

c. Brief history of the center.

d. Center philosophy, goals and objectives.

e. Auditor's report.

f. Annual report.

g. Center policies and procedures.

h. Program plan.

i. Board minutes.

j. Brief description of the state mental health delivery system.

k. A copy of the standards.

567—3.8(230A) Standards for center budget. The governing body submits the annual center budget to the proper authorities.

3.8(1) The board of directors submits the annal budget to auditor(s) and board(s) of supervisors of the county(ies) served by the center pursuant to section 230A.13 of the Code.

3.8(2) The board of trustees submits the budget report to the board(s) of supervisors of the county(ies) served by the center pursuant to section 230A.10 of the Code.

567—3.9(230A) Standards for center administrative plan. There shall be a written administrative plan to ensure effective and efficient managment of the center.

3.9(1) There are tables of organization that denote structural relationships within the center and between the center and affiliates.

3.9(2) There are written policies governing qualifications of the chief administrative officer and supervisory employees/consultants.

a. Responsibility for the overall administration of the center is assumed by a chief administrative officer who meets the following requirements:

(1) He/she has a current Iowa license if practicing medicine, or nursing, or psychology.

(2) He/she either has at least a master's degree in one of the fields of health services administration, psychology, counseling and guidance, nursing, or social work; or else is an M.D. or D.O. eligible for certification by the American Board of Psychiatry and Neurology.

(3) He/she has two years of post-degree experience in mental health.

b. Responsibility for the supervision of clinical care of consumers is assumed by employees/consultants who meet the following requirements:

(1) He/she has a current Iowa license if practicing medicine, or nursing or psychology.

(2) He/she either has at least a master's degree in one of the fields of psychology, counseling and guidance, mental health/psychiatric nursing, or social work; or else is an M.D. or D.O. eligible for certification by the American Board of Psychiatry and Neurology.

(3) He/she has two years of clinical experience in mental health post-master's degree or one year of clinical experience in mental health post-doctoral degree.

c. Responsibility for the supervision of medical care of center consumers is assumed by psychiatrists who meet the following requirements:

(1) He/she has a current license to practice medicine in the state of Iowa.

(2) He/she is eligible for certification by the American Board of Psychiatry and

Neurology.

3.9(3) There are written personnel policies and procedures for center employees.

a. The center is an equal opportunity/affirmative action employer and has nondiscriminatory employing practices with regard to race, creed, age, gender, disabilities, color, religion, and national origin.

b. Notice of openings is provided to organizations officially engaged in securing employment opportunities.

c. Qualified current employees are given information about vacant positions and are given equal consideration with all other applicants.

d. Persons who are being considered for employment are aware of personnel policies/procedures prior to their acceptance of employment.

e. The extent and nature of probationary employment periods for newly hired, promoted or transferred employees are stated.

f. There is a grievance procedure which adequately allows employees to express their dissatisfaction over employment conditions and ensures a resolution of the expressed problems.

g. There are clear and orderly procedures for suspending or dismissing employees. Such procedures ensure employees receive prior warning and have opportunities for appeal.

h. Administrative and professional work performance evaluations are conducted annually.

i. There is a position statement on employees' access to their personnel files.

j. Benefits the center provides to full- and part-time employees are stated. Benefits should include health insurance, retirement plans, paid holidays, sick leave, paid vacations, educational leave, and unemployment insurance.

k. There are policies and procedures for reimbursement of work-related expenses incurred by employees.

l. Limitations on employee participation in activities which may cause a conflict of interest are stated.

m. Written job descriptions define each employee position including duties and responsibilities; education; experience; licensure or certification requirements; salary range; supervisory relationships.

n. Personnel policies/procedures are reviewed annually by the board, chief administrative officer and employees.

3.9(4) There are written policies and procedures for the continued education of center employees.

a. The continuing education needs of center employees are determined based on each employee's knowledge, experience and interests.

b. Consideration of program goals and objectives is given in relationship to individual employee educational needs for determining appropriate educational programs.

c. The required amount of continuing education for employees is stated, e.g., number of workshops, continuing education units (ceu), course hours.

d. The center's degree of responsibility for meeting employees' educational needs is delineated.

(1) The center disseminates information about continuing education opportunities to employees.

(2) The center arranges for leaves of absence to allow employees' participation in continuing education programs.

(3) The center reimburses employees for expenses incurred through participation in continuing education programs.

(4) The center sponsors or co-sponsors continuing education programs in which employees participate.

e. There is an evaluation of the appropriateness and effectiveness of individual continuing education programs in relationship to the center's program plan.

3.9(5) The center has written contracts with consultants retained on a contractual basis which describe consultants' responsibilities, privileges, benefits, if any, and limitations.

3.9(6) There are written policies and procedures for professional and paraprofessional trainees at the center.

a. There are descriptions of the types of available training experiences; objectives of the experiences; methods for evaluating trainees and training experiences.

b. Responsibilities of trainees and supervisors are described.

c. Privileges and limitations on trainees are described.

d. Responsibility of the center to insure trainees against liabilities is described.

e. Trainees' access to consumer records is delineated.

3.9(7) There are written policies and procedures for volunteers at the center.

a. Criteria and procedures for selecting, training and supervising volunteers are described.

b. Responsibilities, privileges and limitations of volunteers are delineated.

c. Responsibility of the center to insure volunteers against liabilities is delineated.

d. Volunteers access to consumer records is delineated.

567—3.10(230A) Standards for center safety and security plan. There shall be a written plan to ensure the safety and security of employees, consumers and the physical resources.

3.10(1) The center delineates and meets all applicable safety, health, fire and sanitation requirements (federal, state, local) and inspection timetables.

3.10(2) The center determines the existence of appropriate licenses for affiliates.

3.10(3) The center has a safety and security program which includes the following aspects:

a. A system for alerting employees/consultants is established and maintained.

b. Employees/consultants are assigned to specific tasks and responsibilities.

c. Employees/consultants are trained for emergency situations.

d. The program is reviewed at least annually with the board, chief administrative officer, employees/consultants.

e. The program is modified as the review warrants.

567—3.11(230A) Standards for center disaster plan. There shall be a written plan for the provision of mental health services to victims of a disaster

3.11(1) The plan is developed in conjunction with other providers of disaster services in the catchment area.

3.11(2) The center determines and specifies what services the center will provide to disaster victims.

3.11(3) Center employees/consultants are knowledgeable of the disaster plan; have designated responsibilities and duties; are trained in detecting mental health needs of disaster victims and trained in crisis intervention; rehearse the plan at least annually.

3.11(4) The plan is reviewed at least annually by the board, chief administrative officer and employees/consultants and action is taken on the recommended changes.

567—3.12(230A) Standards for center financial plan. There shall be sound financial management of the center.

3.12(1) There are written policies and procedures regarding the budget.

a. The budget reflects adequate projected income to meet the expenses of the center's operation.

(1) There is a line item budget.

(2) There is a program budget.

(3) There is a salary account.

(4) There is a general expense account.

(5) There is an equipment account.

(6) There is a separate account for restricted funds, including gifts.

b. There is a procedure for altering budget allocations once the budget has been approved by the board.

c. There are procedures for the handling of accounts receivable, accounts payable and petty cash.

d. There is a procedure for handling checks, including the identification of individuals who are authorized to sign checks for the center.

3.12(2) There are written policies and procedures governing center charges for services.

a. There are set rates for services.

b. The rates are structured so as to give consideration to anticipated increases in the expense of providing services.

c. The center has a fee schedule based on consumer's ability to pay.

d. There are procedures for the credit and collection of consumer accounts, including designation of the authority to write off uncollectible accounts.

e. There are procedures for billing third party payors.

3.12(3) Monthly reports are submitted to the board.

a. Income and expense from operations is shown.

b. There is a comparison of actual with budgeted figures.

c. There are explanations of significant variations.

d. There are cumulative figures for the year to date.

e. There are comparative figures for previous years.

f. There is statistical information of services rendered by the center.

3.12(4) There are written purchasing policies.

a. Needed approvals before capital items may be purchased are stated.

b. Persons who may contract in behalf of the center are identified.

c. The amount of center funds which can be committed by board officers and the chief administrative officer without board approval is defined.

3.12(5) There is a policy regarding the acceptance of gratuities and gifts by the center.

3.12(6) There is a current inventory of equipment.

3.12(7) An independent audit of the center is performed annually.

a. It is performed by the state auditor's office or an accredited firm and copies of the auditor's report are submitted to the board and the agency.

b. Mandated corrective actions are completed in one year.

3.12(8) The center has an insurance program.

a. The program provides protection against potential loss.

(1) There is malpractice insurance.

(2) There is workmen's compensation insurance for all employees.

(3) There is physical damage insurance of the structure and physical damage insurance of the contents.

(4) There is public liability insurance.

(5) There is consumer liability insurance.

b. The program provides protection to members of the board against personal liability claims arising out of their services to the center.

c. The program is reviewed at least biannually.

567—3.13(230A) Standards for center information system. There shall be an information system which provides data required for program planning and monitoring, research and program evaluation.

3.13(1) There are written policies and procedures governing the collection and distribution of organized data and for monitoring the manner in which such data is maintained and used.

a. There are designated persons responsible for reporting and assuring accuracy of information on reporting forms.

b. All users within the center who are authorized to request output from the data system are identified and the nature and extent of those requests is described.

c. There is an assigned person within the center with primary responsibility for the

management of the information system.

d. There are measures to protect confidentiality of information.

e. Types of data needed for planning, program evaluation, monitoring and research are systematically appraised.

f. A uniform system for data collection is maintained.

(1) The system is adequate to meet the center's needs for reporting to local, state and federal agencies.

(2) The system is adequate to meet the program's needs in relation to accreditation requirements.

3.13(2) There are written policies governing research activities to be undertaken by the program.

a. An interdisciplinary committee is established to review and approve all research proposals involving any of the center's consumers, providers, records, or procedures.

(1) Criteria for evaluating proposals include but are not limited to: Quality of the project; protection of rights of individuals involved; consideration of potential hazards to the center and consumers; priority needs of the center; and potential for impact upon mental health knowledge and practices.

(2) Written records of all proposal reviews are maintained.

(3) An appropriate monitoring system for each project is established.

b. Informed written consent is obtained from all persons who will be subjects in research studies which involve assignment to alternate or no-treatment conditions.

c. Every individual participating in the research has the right to terminate his/her participation at any time.

d. A time frame for each research project is specified in writing.

3.13(3) There are written policies and procedures governing the center's self-evaluation for accreditation.

a. There is an annual assessment of the extent to which the standards are being met.

b. Outcomes of the assessment are documented.

c. The center has a written plan for meeting its deficiencies which establishes priorities; defines measures to be implemented; delineates time frame for correcting deficiencies; and identifies any problems related to implementation.

567—3.14(230A) Standards for center contract and agreements. There shall be contracts and agreements for the provision of mental health services.

3.14(1) There is a contract with the county board(s) of supervisors for the delivery of mental health services to residents/nonresidents.

a. The names of the parties participating in the agreement are stated and the agreement is dated.

b. Types of direct or indirect services to be delivered by the center are specified.

c. There is an assurance that legal and human rights of consumers will be protected.

d. There is a statement indicating that the center's fee charges are based on the client's ability to pay.

e. There is a description of the type of arrangements the contracting county(ies) will make for payment of fees for services and a time schedule for payment.

f. There is a provision indicating the center will provide a budget estimate to the contracting county(ies) at the end of the fiscal year for continued service.

g. Procedures are described whereby the board will furnish the contracting county(ies) with an accounting of fee revenue including that received from consumers or persons/companies paying on behalf of consumers.

h. There is a statement indicating the board will furnish the county(ies) with an accounting of expenditures.

i. There is a statement describing the availability of emergency and elective services to residents of counties that have not contracted with the center for services and a description of the fees for said services.

j. There are provisions for monitoring, modifying and terminating the contract by either party.

3.14(2) There is a written agreement between the center and its related mental health institute(s).

a. Names of parties participating in the agreement are stated and the agreement is dated.

b. Auspices for creation of the agreement are stated.

c. The center's and the mental health institute's responsibilities for prescreening, referral and aftercare are delineated.

d. The center's and the mental health institute's responsibilities for communication and information exchange are described.

e. There is a provision for amending the agreement.

3.14(3) There are affiliation agreements with other human service agencies for the delivery of mental health services to center consumers.

a. Names of parties participating in the agreement are stated and the agreement is dated.

b. The nature and extent of direct/indirect services provided by the affiliate agency to center consumers is specified.

c. There is an assurance that legal and human rights of consumers will be protected.

d. The center's and affiliate agency's responsibilities for ensuring continuity of care are delineated.

e. There are provisions for monitoring, modifying and terminating the agreement by either party in the relationship.

f. If the center purchases service from the affiliate agency, the following additional components are incorporated into the agreement:

(1) There are statements about the cost of the service, the arrangements for payment to the affiliate by the board and time schedule for payment.

(2) There is a provision for an estimate to the board by the affiliate at the end of each fiscal year for continued service.

(3) There are procedures whereby the affiliate will furnish the board with an accounting of fee revenue, including that received from consumers or persons/companies paying on the behalf of consumers.

567—3.15(230A) Standards for center quality assurance program. There shall be a quality assurance program to ensure that services provided by the center are appropriate, effective and efficient.

3.15(1) There are policies and procedures for the quality assurance committee.

a. The center has a quality assurance committee who assumes overall responsibility for all review activities, including those which may have been delegated to others; review programs established by any of the center's service elements; review of findings and recommendations; submissions of a report to the chief administrative officer.

b. There are written descriptions of the committee including organization, composition, frequency of meetings, types of records to be maintained, and specific member responsibilities and activities.

3.15(2) There are policies for quality assurance review mechanisms.

a. Admission certification review is conducted with admission criteria being used for screening and justifying admission to outpatient, partial hospitalization and inpatient services.

b. Continued care review is conducted with discharge criteria and length of care norms being used to assess consumers' need for continuation of outpatient, partial hospitalization and inpatient services.

c. Clinical care evaluation studies are conducted to review the quality and nature of the utilization of outpatient, partial hospitalization and inpatient services.

(1) The studies focus on identified real or potential problem areas.

(2) There is an examination of the data on care provided by a number of employees/consultants to a number of consumers.

(3) Results of the studies are used to monitor the effectiveness of continuing education efforts, admission certification review, continued care review; and used to identify needed changes in the organization and administration of service delivery.

d. Review of consumer/family satisfaction with center services is conducted semiannually.

(1) Questionnaires, surveys, public hearings or meetings are used as review methods.

(2) Results are used as one measure of service outcomes.

3.15(3) There are written procedures for maintaining consumer confidentiality which meet the confidentiality requirements stated herein.

3.15(4) There are policies for promoting staff morale, vitality and productivity to ensure quality therapeutic services.

567—3.16(230A) Standards for center medication management and control. There shall be proper management and control of medications.

3.16(1) The center meets the following conditions for storage and handling if medications are stored at the center:

a. All drugs are kept in a locked cabinet.

b. Schedule II drugs, as defined by chapter 204 of the Code, are kept under double lock.

c. The key to a medication cabinet which contains controlled substances, as defined by chapter 204 of the Code, is in the possession of a physician.

d. A bathroom is not to be used for drug storage.

e. Drugs for external use are kept separate from drugs for internal use.

f. Samples of medications are kept in their original containers and dispensed or administered in the same manner as any other medication.

g. Medications are stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

h. There is proper space, light and security for storing and handling medications.

3.16(2) The center has written policies and procedures for management and control if medications are prescribed, dispensed or administered at the center.

a. Physicians prescribing, dispensing or administering controlled substances, as defined by chapter 204 of the Code, are registered at the center address by the state board of pharmacy examiners.

b. All prescribed medications are clearly labeled indicating the consumer'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 the physician issuing the drug.

c. Medications are dispensed or administered only upon the order of a physician and based on a current evaluation of the consumer's condition.

d. The physician prescribing the medication is responsible for being informed of the effect of the medication on the consumer.

e. Medications are administered or dispensed only by a physician or by authorized employees under his/her personal supervision. Injectable medications are not administered by anyone other than a licensed nurse or physician.

f. Controlled drugs, as defined by chapter 204 of the Code, are administered only by a licensed physician or nurse or other qualified individual as defined in the board of pharmacy rules and regulations.

g. Records of dispensing or administering controlled substances are maintained and readily retrievable in accordance with chapter 204 of the Code.

h. Records of dispensing or administering schedule II drugs are kept separate from all other records in accordance with chapter 204 of the Code.

i. Each dose of medication administered or dispensed is recorded in the consumer's service record.

j. Medication errors, toxic reactions, and untoward side effects are reported immediately to the physician prescribing the medication and are recorded in the consumer's service record.

k. Teaching is provided to the consumer and family or significant others regarding the purpose of medication; side effects and complications; route; frequency and dosage of medication. Teaching is documented in the consumer's service record.

l. Discontinued and outdated medications are disposed of in accordance with the board of pharmacy rules and regulations.

3.16(3) The center has current pharmacy reference material including at least the American Hospital Formulary Service and Physicians Desk Reference.

567—3.17(230A) Standards for center program plan. Center services shall be designed to meet the needs of the residents of the catchment area.

3.17(1) Citizens, provider agencies, center employees/consultants and the board are involved in program planning and evaluation.

3.17(2) There is a mental health needs assessment of the residents of the catchment area.

a. Risk and target populations are identified.

b. Types and extent of mental health problems are described.

c. All mental health services being offered to risk and target populations are identified.

d. The utilization pattern of mental health services by members of risk and target populations is described.

3.17(3) There is a written program plan for center services.

a. There is a summary of the outcome of the needs assessment.

b. Stated goals, objectives and priorities of the program are based on the outcome of the needs assessment.

c. There are descriptions of resources needed to meet the goals and objectives.

d. Activities and services the center will provide to meet the goals and objectives are stated.

3.17(4) The program plan is reviewed at least annually by citizens, center employees/consultants and board.

a. There is an evaluation of the changing needs of the residents of the catchment area.

b. The relevancy and significance of the goals, objectives and priorities are examined.

c. The sufficiency (quality and quantity) of current resources is evaluated.

d. The sufficiency (quality and quantity) of center services is evaluated.

3.17(5) The program is revised as the review of the program plan warrants to meet the current mental health needs of the catchment area residents.

567—3.18(230A) Standards for minimizing barriers to center services. Services shall be delivered in a manner which minimizes barriers to the receipt of services.

3.18(1) There are mechanisms to ensure the visibility of the center to consumers.

a. Clearly visible signs are placed outside the center.

b. If the center or satellite(s) is housed in a multipurpose facility, the center can be identified by direction-giving information posted within the facility.

c. The name, address and telephone number of the center is on all center stationery.

d. Written informational material about the center and its services is developed and disseminated to residents of the catchment area.

e. The center is cross-listed in all telephone directories in the catchment area.

3.18(2) There are mechanisms to ensure the accessibility of services to consumers.

a. Services are provided regardless of age, race, national origin, sex, social status, diagnostic category and income.

b. There is adequate parking for consumers.

c. When it is not possible for a consumer to commute to the center, services are provided at some other accessible location.

d. Services are available during hours and times of the day to meet consumer needs.

e. There is adequate space in the center to accommodate the needs of consumers, particularly the special needs of children and the elderly.

f. Services are procedurally accessible.

(1) Standardized application and referral forms are used.

(2) Written procedures for screening, intake/evaluation and referral are developed and followed.

(3) Consumers have contact with a clinical mental health professional within seven working days after their initial contact.

(4) Consumers wait no longer than fifteen minutes to receive scheduled services.

3.18(3) There are mechanisms to ensure the acceptability of the services to consumers.

a. The center is a clean and well-maintained facility with comfortable furnishings and reading material.

b. The waiting area, reception area and offices allow for privacy of conversation.

567—3.19(230A) Standards for maximizing continuity of care. Services shall be provided in a manner which maximizes continuity of care.

3.19(1) There are mechanisms to ensure consumers move freely from one service element to another with as little interruption as possible.

a. A treatment plan is formulated upon the consumer's admission and modified at each transfer point or change of status.

b. Each consumer is assigned to a clinical mental health professional to ensure assessment, planning, linking and monitoring.

c. Case management and planning-linking conferences are held to ensure continuity of care, liaison and co-ordination of services.

d. Recommendations and decisions resulting from case management and planning-linking conferences are documented in the consumer's service record.

e. The return of consumers to services from which they have been recently transferred is justified and jointly concurred.

f. The consumer's service record or pertinent portions of the records are readily transferrable between center service elements.

3.19(2) There are mechanisms to ensure co-ordination between center services and other relevant human service agencies in the community in order to minimize fragmentation and duplication of services.

a. When the center makes a referral, there is follow through to determine outcome of referral; all necessary material is completed and forwarded promptly; the action taken is documented in the consumer's record.

b. When the center receives a referral, the center informs the referent of the outcome of the referral, except in cases of nonconsent, and documents the contact with the referent in the consumer's record.

c. Transmittal of consumer information between the center and other agencies is safeguarded in accordance with requirements dealing with confidentiality in the disclosure of information.

d. The center has contractual agreements with the mental health institute and county board(s) of supervisors and written affiliation agreements with other human service agencies as needed.

567—3.20(230A) Standards for protecting consumer rights. The center shall ensure the protection of consumer's rights.

3.20(1) The center has a policy protecting fundamental legal and human rights of consumers.

a. The right to treatment on the basis of need for treatment.

b. The right to be received and treated with dignity.

c. The right to communicate with friends, family, legal representatives and significant others.

d. The right to treatment in the least restrictive manner.

e. The right to be protected from invasion of privacy.

f. The right to have information about him/her treated confidentially.

g. The right to be fully informed about any risks entailed in treatment and research studies.

h. The right to make choices about his/her participation in treatment or research.

i. The right to express his/her opinion about services received.

j. The rights delineated in 770—28.4, subrules 1 to 24 of the Iowa Administrative Code, as applicable.

3.20(2) The center posts a written statement which states the center will protect fundamental legal and human rights of consumers.

3.20(3) The center obtains written, informed consent from consumers or legal guardians for participation in any experimental treatment or procedure; all procedures that carry an intrinsic risk such as convulsive therapy, psychosurgery or aversive reinforcement conditioning; education demonstration programs involving audio-visual equipment and one-way mirrors.

567—3.21(230A) Standards for governing confidentiality. The center shall ensure confidentiality in the collection, use and dissemination of personal information about consumers.

3.21(1) There are policies governing confidentiality of information in consumer's service records.

a. All information collected which may in any way lead to the identification of consumers is considered confidential.

b. All employees, students, volunteers as well as other authorized individuals having access to records and consumer names are aware of the need for and maintenance of confidentiality of records and consumer information.

3.21(2) There are written policies governing confidentiality in the disclosure of information.

a. All consumers are informed verbally and in writing that they have the option to refuse disclosure of information and they will not be denied service if they choose to refuse disclosure.

b. Prior to giving their written consent, consumers understand the nature and extent of the information that will be given, the person or agency to whom it will be given, and why the information is being requested.

c. Written consent of consumers or legal guardians is required on all disclosures of information from consumer service records and on disclosures of all other consumer identifying information.

d. The written consent form used by the center includes: Name of center; name of person or agency to whom the disclosure is made; name of consumer; purpose for disclosing information; extent and nature of information to be disclosed; specific date, event or condition upon which the consent will expire; date the consent is signed; signature of consumer or legal guardian.

e. The consent form is countersigned by at least one witness.

f. The original consent form remains in the consumer's record; a copy accompanies the disclosed information.

567—3.22(230A) Standards for center service records. The center shall ensure adequate service records for all consumers.

3.22(1) There are written policies and procedures governing the adequacy of records.

a. Clinical information is current and complete.

b. There are safeguards against tampering, damage, loss and unauthorized use.

c. Record forms are standardized and organized.

d. All entries in the service records are legible and consistently signed.

e. Records are properly stored and disposed.

3.22(2) Center consumer records contain basic identifying information: Full name, address (including zip code and county), telephone number, marital status, sex, ethnicity, date of birth, educational and employment status, date of admission, referral source and insurance coverage.

3.22(3) Center records contain assessment information.

a. There is a description of the presenting problem.

b. There is a history of the present situation.

c. Relevant past history is noted.

d. A drug use profile is developed and indicates prescription and nonprescription drugs which have been taken for the previous six months.

e. Findings of examinations, tests and procedures are stated.

f. There is a summary of input from family, friends or significant others when appropriate.

g. An impression or diagnosis is given.

3.22(4) There are written treatment plans for all consumers.

a. Consumer's problems or needs, strengths and weaknesses are stated.

b. The rationale for the plan is given.

c. Treatment goals and objectives are stated and a timetable for achievement of goals is noted.

d. Specific treatment modalities are identified.

e. Consumer's agreement to the treatment plan is documented.

3.22(5) Records of medications prescribed following admission are included in consumer's service record.

a. The medication is identified by name.

b. Dosage, frequency and route of administration is given.

c. The date medications are prescribed and the name of the physician prescribing is noted.

d. Name and title of person administering the medication is noted.

e. Any drug allergies, idiosyncratic or adverse reactions are stated.

f. The date medications are discontinued or changed is noted as well as the name of the physician.

g. There is evidence of physician's review of medication at least every three months.

3.22(6) Signed consent forms and release of information forms are included in the records.

3.22(7) There are progress notes on all consumers.

a. The date of each contact is recorded.

b. The duration of the contact is recorded.

c. There is a brief descriptive summary of nature of contact.

d. There is a brief descriptive statement of significant consumer progress toward treatment goals.

e. All entries are dated and signed.

3.22(8) Discharge plans are developed for all consumers, indicating evidence of collaboration with consumer, family or significant others, appropriate human service providers; identified follow-up services.

567—3.23(230A) Standards for center outpatient services. Outpatient services are provided to consumers consistent with the center's program plan.

3.23(1) Services are available at times which are appropriate to meeting consumers' needs.

a. The center offers services on a regularly scheduled basis, at least eight hours a day, five days a week.

b. The center makes arrangements to see consumers during times of increased stress or crisis.

3.23(2) Preliminary screening activities are performed.

a. There are designated employees/consultants who are responsible for the activities.

(1) Employees/consultants are trained and experienced in making contacts with consumers and provider agencies; detecting mental health problems or needs; gathering and providing information; managing crisis situations; providing consultation.

(2) A designated clinical mental health professional is responsible for the training and supervision of employees doing the screening.

(3) Back-up consultation is immediately available for crisis situations.

b. Outcomes of screening are documented.

3.23(3) Intake/evaluation activities are performed.

a. The activities are performed by clinical mental health professionals with accessibility to other mental health professionals for consultation and supervision.

b. Intake/evaluation procedures take into account the unique needs of the consumer; the consumer's abilities and disabilities; interacting environmental factors.

(1) There is collaboration with family or significant others, as appropriate.

(2) The evaluation gives consideration to psychological, biological/medical, familial, social, economic, educational, cultural and religious factors.

c. The outcomes of the intake/evaluation are shared with the consumer or legal guardian and are documented in the consumer's service record.

d. If the center cannot provide the services needed by the consumer, the clinical mental health professional performing the evaluation will discuss alternative resources and services with the consumer, make a referral if agreed upon by the consumer, and follow through until the referral is completed.

e. If the center can provide the services needed and desired by the consumer, a service record is established and necessary forms and administrative procedures are completed.

3.23(4) The center provides treatment intervention based on the assessed problems or needs of consumers.

a. An individualized treatment plan is developed for all consumers.

(1) The plan is developed in conjunction with the consumer, his/her family or legal guardian and the providers who have had direct involvement with the consumer.

(2) The plan includes a clear statement of the consumer's problems and needs, strengths and weaknesses; rationale for the plan; treatment goals and objectives with timetable; specific criteria for determining achievement of objectives; specific treatment modalities; indication of the consumer's agreement of the plan.

(3) The plan is periodically reviewed by the consumer and clinical mental health professional for an evaluation of progress toward goals and for an evaluation of the changing needs of the consumer.

b. Treatment is provided by or directly supervised by clinical mental health professionals.

c. Treatment modalities include at least verbal therapies and chemotherapy as appropriate.

d. Whenever possible, family or significant others and appropriate community resources are utilized to encourage and enable the consumer's return to adequate social functioning.

3.23(5) Treatment intervention is documented in the consumer's service record.

567—3.24(230A) Standards for center consultation and education services. Consultation and education services shall be offered to community agencies, other providers of care and the general public consistent with the center program plan.

3.24(1) Consultation is offered to a wide range of community representatives and providers of care, e.g., schools, courts, police, clergy, welfare and health care personnel.

a. Consultation activities include program-oriented consultation and case-oriented consultation.

b. Consultation activities are documented and state the name of the recipient; name of consultant; and duration of consultation contact; and purpose for the consultation.

3.24(2 Education is offered to a wide range of community representatives, providers of care and the community in general.

a. A wide variety of educational methods are utilized including mass media, printed material, audio-visual material and talks.

b. Education activities are documented and state name of recipient; name of staff member; number of persons present; purposes for the service; time expenditure, including preparation and presentation; response to the service provided.

3.24(3) The services are provided directly or supervised by clinical mental health professionals.

567—3.25(230A) Standards for center crisis services. Crisis services are provided to consumers consistent with the center program plan.

3.25(1) Crisis services are available twenty-four hours a day, seven days a week.

3.25(2) There are procedures for providing crisis services during office hours.

a. All employees are trained in making initial contacts with individuals in crisis situations.

b. There is at least one employee in the office at all times who is trained and experienced in crisis assessment techniques; first aid; and crisis intervention techniques, including control and management techniques.

c. A designated clinical mental health professional is responsible for training and supervising the employees.

d. A clinical mental health professional in the center is immediately available for telephone and face-to-face intervention.

3.25(3) There are procedures for providing crisis services when the office is not open.

a. The center has a telephone service which directly links the consumer to an individual trained and experienced in crisis assessment and intervention techniques.

b. A designated clinical mental health professional is responsible for training individuals, if not provided by another source.

c. A clinical mental health professional is immediately available for telephone and face-to-face intervention.

d. There is a written schedule of clinical mental health professionals who are on call.

3.25(4) Logs and records of the crisis services are maintained.

a. There is a log of incoming calls which indicates time of call, nature of consumer's needs and the action taken.

b. Records are made for each face-to-face contact including descriptions of the action taken.

567—3.26(230A) Standards for center partial hospitalization services. Partial hospitalization services shall be provided to consumers consistent with the center program plan.

3.26(1) The services are offered at least four hours a day, five days a week.

3.26(2) If the services are provided in a hospital, the hospital is licensed by the state department of health.

3.26(3) Preliminary screening activities are performed.

a. There are designated employees/consultants who are responsible for the activities.

(1) Employees/consultants are trained and experienced in making contacts with consumers and provider agencies; detecting mental health problems/needs; gathering and providing information; managing crisis situations; providing consultation.

(2) A designated clinical mental health professional is responsible for the training and supervision of employees doing the screening.

(3) Back-up consultation is immediately available for crisis situations.

b. Outcomes of screening are documented.

3.26(4) Intake/evaluation activities are performed.

a. The activities are performed by clinical mental health professionals with accessibility to other mental health professionals for consultation and supervision.

b. Intake/evaluation procedures take into account the unique needs of the consumer; the consumer's abilities and disabilities; interacting environmental factors.

(1) There is collaboration with family or significant others, as appropriate.

(2) The evaluation gives consideration to psychological, biological/medical, familial, social, economic, educational, cultural and religious factors.

c. The outcomes of the intake/evaluation are shared with the consumer or legal guardian and are documented in the consumer's service record.

d. If the center cannot provide the services needed by the consumer, the clinical mental health professional performing the evaluation will discuss alternative resources and services with the consumer, make a referral if agreed upon by the consumer, and follow through until the referral is completed.

e. If the center can provide the services needed and desired by the consumer, a service record is established and necessary forms and administrative procedures are completed.

3.26(5) The center provides treatment intervention based on the assessed problems or needs of the consumers.

a. An individualized treatment plan is developed for all consumers.

(1) The plan is developed in conjunction with the consumer, his/her family or legal guardian and the providers who have had direct involvement with the consumer.

(2) The plan includes a clear statement of the consumer's problems and needs, strengths and weaknesses; rationale for the plan; treatment goals and objectives with timetable; specific criteria for determining achievement of objectives; specific treatment modalities; indication of the consumer's agreement of the plan.

sional for an evaluation of progress toward goals and for an evaluation of the changing needs of the consumer.

b. Treatment is provided by or directly supervised by clinical mental health professionals.

c. Consumers are provided opportunities for maximizing independent living skills including social interaction, personal hygiene, housekeeping/cooking, prevocational skills and the use of community agencies and resources.

d. Whenever possible, family or significant others and appropriate community resources are utilized to encourage and enable the consumer's return to adequate social functioning.

3.26(6) Treatment intervention is documented in the consumer's service record.

567—3.27(230A) Standards for center inpatient services. Inpatient services shall be provided to consumers consistent with the center program plan.

3.27(1) The services are available twenty-four hours a day, seven days a week.

3.27(2) Inpatient services are provided in hospitals which are licensed by the state department of health.

3.27(3) Inpatient services are aimed at rapid evaluation and effective treatment to facilitate consumer's return to the community.

a. Inpatient services are used when, and for as long as alternative services are considered inadequate or inappropriate to meeting consumer's needs.

(1) Admission criteria are used to ensure the consumer's admission is appropriate to meeting his/her needs.

(2) Discharge criteria and length of care norms are used to determine the consumer's need for continuation of inpatient services.

b. The services provided are based on the assessed needs or problems of the consumer and his/her individualized treatment plan.

c. Center clinical mental health professionals assigned to center consumers participate in planning, implementing and evaluating the services the consumer receives; and perform follow-up activities to ensure the consumer receives needed post-hospitalization services.

d. Family or significant others are allowed and encouraged to participate in the consumer's treatment program.

e. The services provided are documented in the consumer's service record.

3.27(4) Inpatient services offer at least: Crisis care, including evaluation and treatment; verbal therapies; general health services; dietary services; pharmacy services.

3.27(5) The center ensures the safety, protection and dignity of consumers.

a. Consumer rights are protected according to the requirements stated herein.

b. Confidentiality of consumer information is protected according to the requirements stated herein.

c. Seclusion is used only when a consumer is seriously harming self or others after verbal efforts and medication have not had a calming effect and only with written authorization from a physician.

d. Physical restraints are used only after seclusion has failed to prevent a consumer from seriously harming self or others and only with written authorization from a physician.

e. Personal belongings of all consumers are safeguarded so as to prevent items from being lost, stolen, damaged or destroyed.

f. Consumers receive visitors according to hospital policy.

g. Consumers have access to religious services and counseling.

h. Consumers receive adequate reimbursement for work performed in conjunction with the provision of services.

These rules are intended to implement the following sections of the Code: 17A.3; 230A.16.

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CHAPTER 4
REVIEW AND EVALUATION

567—4.1(230A) Schedule. The agency shall review and evaluate centers at least every two years. Scheduling of federally funded centers shall be co-ordinated with a representative of Region VII of the Department of Health, Education, and Welfare and the medical facilities consultant for the state department of health. The date chosen for review and evaluation of a center shall be mutually acceptable to the center and the survey team and shall be determined within a reasonable amount of time prior to the review.

567—4.2(230A) Survey. The agency shall review and evaluate centers through on-site visits. The survey team making on-site visits of nonfederally funded centers shall consist of agency staff. The survey team making on-site visits of federally funded centers shall consist of agency staff plus a representative of Region VII of the Department of Health, Education, and Welfare and the medical facilities consultant for the state department of health.

4.2(1) Prior to the on-site visit, the agency shall notify the center in writing of the on-site visit. The letter shall state:

a. Purpose and objectives of the visit.

b. Date, time and place of the visit.

c. Names of the survey team members.

d. Names of board and center representatives requested to be available.

e. Agenda for the on-site visit.

f. Request of the center to return the following written material to the agency no later than thirty days prior to the visit:

(1) Articles of incorporation
(2) Board bylaws
(3) Name, address, occupation, and county of residence of each board member
(4) Organizational chart
(5) Most recent annual audit
(6) Contracts and agreements
(7) Fee schedule
(8) Program plan

(9) Chart forms
(10) Brochure
(11) Policy/procedure manual
(12) Referral forms and release of information forms
(13) Staff credential forms

4.2(2) All members of the survey team shall independently review and evaluate the written material for completeness and for determination of the center's compliance with the standards.

4.2(3) The on-site visit by the survey team shall include, but not be limited to review and evaluation of center governance and administration as well as those services outlined in the program plan. The survey team shall examine center records and documents; hold discussions with the center executive director, board and staff; hold discussions with affiliate agency personnel; receive input from the general public and consumers of center services; and examine the physical facility.

4.2(4) The survey team shall evaluate the center's compliance with the standards. Where deficiencies are found in a center program, the survey team shall discuss with the center executive director, board and staff a plan for corrective action and a time frame for completion of corrective action. The compliance schedule may be found in the agency's survey report form.

567—4.3(230A) Report. Within a reasonable amount of time following the completion of the on-site visit, the agency shall send copies of the written report of the survey findings to the center board president and executive director. The original report shall be maintained at the office of the agency for at least five years and shall be available for inspection pursuant to chapter 68A of the Code. Copies shall be made upon request and at the expense of the person requesting them. The report shall include the survey team's observations re: Strengths and deficiencies, and a recommendation to the committee for an accreditation decision. Within ten days from receipt of the report, a center may send a written request to the director of the agency asking for an interview with one or more members of the survey team to discuss, clarify, or correct any information presented in the report.

567—4.4(230A) Decision.

4.4(1) If the agency finds a center is in satisfactory compliance with the standards, the agency will recommend to the committee that the center be accredited. If the committee decides to accredit the center, the center shall receive a two-year certificate of accreditation effective the date of the on-site visit. Upon committee request, the agency shall communicate the accreditation decision in writing to the center board president and executive director; Community Mental Health Centers Association of Iowa, Inc.; all appropriate public and private third party payors; and the county board(s) of supervisors. If the center is receiving federal funds, then the agency shall also communicate the accreditation decision in writing to the Region VII office of the Department of Health, Education and Welfare.

4.4(2) If the agency finds the center is not in satisfactory compliance with the standards, the center shall be requested to develop a plan for corrective action with timetable and submit the plan to the director of the agency within forty-five days of the report. Upon request of the center, the survey team shall assist the center in developing and implementing a plan for corrective action. When the center has corrected the deficiencies outlined in the report and is prepared for re-evaluation, they shall submit a letter requesting re-evaluation to the director of the agency. A second on-site visit of the center may be made by the survey team to ensure the center's compliance with the standards. After re-evaluation of the center the agency shall prepare a written status report on the center and submit it to the committee. The committee shall review the report and make an accreditation or nonaccreditation decision.

a. If the committee decides to accredit the center, the center shall receive a two-year

certificate of accreditation effective the date of re-evaluation. Upon committee request, the agency shall communicate the accreditation decision in writing to the center board president and executive director; Community Mental Health Centers Association of Iowa, Inc.; all appropriate public and private third party payors; and the county board(s) of supervisors. If the center is receiving federal funds, then the agency shall also communicate the accreditation decision in writing to the Region VII office of the Department of Health, Education and Welfare.

b. If the committee decides not to accredit a center, the agency shall communicate the decision in writing to the center board president and executive director; Community Mental Health Centers Association of Iowa, Inc.; all appropriate public and private third party payors; and the county board(s) of supervisors. If the center is receiving federal funds, then the agency shall also communicate the accreditation decision in writing to the Region VII office of the Department of Health, Education and Welfare. The written communication shall indicate the reasons for the nonaccreditation decision.

These rules are intended to implement the following sections of the Code: 17A.3; 230A.16, 230A.17, 230A.18.

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CHAPTER 5
ADMINISTRATIVE PROCEDURES

567—5.1(17A) Petition for adoption of rules.

5.1(1) *Request.* Any person requesting the promulgation, amendment or repeal of a rule shall submit such request in writing to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319.

5.1(2) *Form.* Although the request need not follow any prescribed form, it shall clearly state:

a. The current rule, if one exists.

b. The proposed rule, amendment to such existing rule, or the action desired by the petitioner.

c. The pertinent facts and reasons in support of the petitioners position.

5.1(3) *Disposition.* The director or his/her designee shall refer such request to the appropriate agency unit for consideration within ten days. The unit shall within fifty days following the receipt of the petition either deny the petition in writing on the merits or initiate rule-making procedures.

567—5.2(17A) Petition for declaratory rulings.

5.2(1) *Request.* If there is a disagreement regarding the interpretation or applicability of a statutory provision, rule or other written statement of law or policy, decision or order of the agency, any person so affected may petition the agency for a declaratory ruling. The petition shall be submitted in writing to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319.

5.2(2) *Form.* Although the request need not follow any prescribed form, it shall clearly state:

a. The statutory provision, rule or other written statement of law or policy, decision or order of the agency in question.

b. A full statement of the facts being presented for the agency's consideration.

5.2(3) *Disposition.* The director or his/her designee shall refer such request to the appropriate agency unit for consideration within ten days. The director shall notify the petitioner in writing of the agency's disposition of the petition within fifty days following the receipt of the petition.

567—5.3(17A) Rule adoption—opportunity for oral presentation. When a timely request for making an oral presentation in regard to a rule is presented to the agency as provided in section 17A.4 of the Code, the director shall set a time and place for the presentation. The time shall not be less than twenty days after the notice is published in the Iowa Administrative Bulletin. The notice shall state who the director has designated to conduct the presentation, the subject matter, and location.

567—5.4(17A) Contested cases—informal settlement. Parties are encouraged to request informal settlement of a controversy which could culminate in a contested case as defined in section 17A.13 of the Code. The request should be made by letter to the director, setting forth a concise statement of the circumstances giving rise to the controversy, the text of or citation to any applicable law, rule, or decision and a statement of the settlement proposed. A request for informal settlement should be received by the director not less than fifteen days before the agency meeting at which it is to be considered. The director shall schedule consideration of the request at the next regular agency meeting occurring not more than fifteen days after the petition is received. Not more than ten days after the agency meeting at which the request is scheduled for consideration, the director shall notify the petitioner in writing of the agency's disposition of the request. If the agency determines that a conference is appropriate, the party will be notified when, where and with whom such a conference is to be held. The terms of any informal settlement agreed to by the parties shall be embodied in a written stipulation.

567—5.5(17A) Contested cases—fair hearings. The agency shall grant to an applicant or any affected party, an opportunity for a fair hearing with respect to the findings and recommendation on any grant or accreditation survey.

5.5(1) Guidelines for requesting fair hearings are as follows:

a. The request for a hearing shall be made in writing to the agency within thirty days after the applicant or any affected party receives notice of the recommendation by the agency.

b. The applicant or any affected party shall show good cause why the findings and recommendation of the agency should not stand, establishing the following, but not be limited to:

(1) The findings and recommendation of the agency were incorrect in that they were not based on substantial evidence.

(2) The findings and recommendation of the agency were not consistent with the grants-in-aid guidelines or standards or the findings and recommendation were not given in accordance with published procedures.

c. The applicant or any affected party shall have the right to present testimony and oral arguments, the right to be represented by counsel at its own expense, and the right to have other agencies and private individuals give testimony in its behalf.

d. The applicant or any affected party shall not challenge the correctness, adequacy, or appropriateness of the grants-in-aid guidelines or standards.

5.5(2) *Hearing officers.* The chairperson of the committee shall determine whether the hearing shall be held before the committee or a panel of committee members. The committee or a panel of committee members shall determine if the agency has made a fair and reasonable determination of the facts, if the findings are supported by substantial evidence, and if its recommendation is consistent with the grants-in-aid guidelines or standards.

a. The committee or a panel of committee members shall be furnished with the following in advance of the hearing:

(1) The proposed grant application or accreditation survey report on file with the agency.

(2) The findings of any other agencies and groups.

(3) Any written staff products made available to the committee.

(4) Any briefs or written materials submitted by any party.

(5) Any other written material the committee or a panel of committee members shall request.

b. Within ninety days after the agency receives a request for a hearing, the committee or a panel of committee members shall hold the meeting.

c. The agency shall give adequate notice to all parties of the hearing date. Adequate written notice shall be at least ten days but no more than twenty days.

d. The committee or a panel of committee members shall determine a time, date and place for a hearing.

e. The hearing shall be held in a public place and shall be open to the public. Oral proceedings shall be recorded mechanically. The hearing shall be conducted so as to give all parties a fair opportunity to be heard.

f. The committee or a panel of committee members shall listen to testimony and arguments from all those concerned, take the matter under advisement, and make a decision setting out the findings of fact and conclusions of law on which such decisions are based.

5.5(3) *Ex parte communication.* Should the committee or a panel of committee members or any party to a contested case or the representative of any party wish to communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, they shall give required notice pursuant to section 17A.17 of the Code and opportunity to be heard to all parties. The notice shall be in writing and shall include the names of the committee members, the name of the party to whom the communication will occur, the nature of the communication, and the place and time of the communication. Persons who violate this rule will be subject to the penalties specified in section 17A.17 of the Code.

5.5(4) *Conduct of the fair hearing.* A record of the fair hearing shall be kept for at least five years from the date of the decision by the committee or a panel of committee members and shall include time, date, and place of the hearing; parties present; any action taken pursuant to the requirements of chapter 28A and section 17A.12(6) of the Code.

a. The committee or a panel of committee members shall open the fair hearing by addressing those present as to the proper procedures to be followed during the hearing.

b. If a party fails to appear in a contested case proceeding after proper service of notice, the committee or a panel of committee members shall, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party.

c. The fair hearing shall consist of a presentation of relevant facts by representatives from the agency and the applicant, or affected persons each being given an equal opportunity. Time limits may be established by the committee or a panel of committee members.

d. During the course of the hearing, the committee or a panel of committee members shall be free to ask questions of anyone at any point. The committee or a panel of committee members shall conduct the hearing in an orderly fashion. The fundamental requirements of due process shall not be ignored and the exercise of power by the committee or a panel of committee members shall not be arbitrary or capricious.

5.5(5) *Rules of evidence.* The technical rules of evidence shall not be strictly applied to the hearing, but evidence must be material, competent, sufficient, and have rational probative force. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. The agency shall give effect to the rules of privilege recognized by constitution or statute. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, any part of the evidence may be required to be submitted in verified written form.

a. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

b. Witnesses at the hearing, or persons whose testimony has been submitted in written form, if available, shall be subject to cross-examination on any part as is necessary for a full and true disclosure of the facts.

c. Parties shall be notified at the earliest practicable time, either before or during the hearing or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the agency determines as part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

d. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

5.5(6) *Burden of proof.* The burden of proof shall be on the applicant requesting the hearing. The applicant has the affirmative duty to show that the agency has not acted in accordance with the grants-in-aid guidelines or standards referenced or developed pursuant to sections 225B.1 and 230A.16 of the Code. To refute these arguments, the agency shall show:

a. The findings of the agency were correct and were supported by substantial evidence.

b. The recommendations of the agency were consistent with the grants-in-aid guidelines or standards referenced or developed pursuant to sections 225B.1 and 230A.16 of the Code.

5.5(7) *Committee determinations.* All decisions by the committee or a panel of committee members shall formally state whether the grant application or accreditation survey is or is not in conformance with the grants-in-aid guidelines or standards. As part of this process, the committee or a panel of committee members shall determine:

a. Whether the agency did or did not make a reasonable and fair determination of facts supported by substantial evidence.

b. Whether the agency did or did not appropriately apply those facts to the grants-in-aid guidelines or standards referenced or developed pursuant to sections 225B.1 and 230A.16 of the Code. The official report from the committee shall include a statement or rationale and supporting evidence to show the basis for the preceding determinations.

5.5(8) *Committee alternatives.* The committee or a panel of committee members shall have the following alternatives:

a. Uphold the agency findings and recommendation.

b. Overturn the agency findings and recommendation.

c. Remand the grant application or accreditation survey back to the agency for further consideration on the basis of new evidence or additional information which has developed since completion of the original review.

d. Make such order as would be just and equitable given the facts and circumstances of a particular case.

5.5(9) *Post hearing duties.* Within a reasonable amount of time after the end of the hearing, the committee shall notify the applicant or affected party, the agency and other interested individuals of their decision. The committee shall also make available on request copies of the record of the hearing and copies of any evidence introduced. These copies shall be made at the expense of the person requesting them. The original record shall be available for inspection and shall include the time, date, and place of the hearing, the parties present, the action taken, and the evidence introduced.

5.5(10) *Committee's decision.* If the hearing is held before the committee, then the decision of the committee shall be final. If the hearing is held before a panel of committee members constituting less than a quorum of the committee, then the panel shall render a proposed decision which shall become the final decision of the committee fifteen days after mailing the proposed decision, unless prior to that time a party submits an appeal from, or a committee member requests a review of a proposed decision. Notice of an appeal from or a committee member's request for review of a proposed decision shall be mailed to all parties by the director of the agency or his/her designee. Within fifteen days after mailing of a notice of appeal or of a request for review, any party may submit to the committee (in an original and fifteen copies) exceptions to and a brief in support or opposition to the proposed decision, copies of which exceptions or brief shall be mailed by the submitting party to all other parties to the proceeding. The director of the agency or his/her designee

shall notify the parties if the committee deems oral arguments by the parties to be appropriate. The director of the agency or his/her designee will schedule review of the proposed decision at the next committee meeting occurring not less than thirty days after mailing of the notice of appeal or request for review.

These rules are intended to implement the following sections of the Code: 17A.3, 17A.4, 17A.7, 17A.9, 17A.10, 17A.11, 17A.12, 17A.14, 17A.15, 17A.16, 17A.17; 225B.4, 225B.7; 230A.17.

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CHAPTER 1
DEFINITIONS

570—1.1(19A) Definitions.

1.1(1) *"Absence without leave"* means any absence of a classified employee from duty without specific authorization, either before or after such absence.

1.1(2) *"Act"* or *"merit employment Act"* means the law creating the merit system of personnel administration and any amendments thereto*.

1.1(3) *"Agency"* means any legally constituted board, commission, office, authority, agency, department or other branch of state government in which all positions are under the same appointing authority.

1.1(4) *"Agency promotional list"* means an eligible list of permanent employees of the agency, or duly established organizational unit thereof, established by examination from which promotions are made.

1.1(5) *"Allocation"* means the original assignment of a position to an appropriate class on the basis of duties and responsibilities assigned and performed.

1.1(6) *"Appointing authority"* means the officer, board, commission, person or group of persons having the power by virtue of a statute, or lawfully delegated authority, to make appointments to, or remove from employment in the state classified service.

1.1(7) *"Certification"* means the act of submitting the required number of available names on an appropriate eligible list to an appointing authority for the purpose of his making a selection in accordance with these rules.

1.1(8) *"Class"* or *"class of position"* means one or more positions, which are sufficiently similar in duties and responsibilities, that each position in the group can be given the same job title, require the same minimum qualifications as to education and experience, can be filled by substantially the same test of ability or fitness, and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

1.1(9) *"Class specification"* means a descriptive and explanatory guide reflecting distinct characteristics of duties and responsibilities normally assigned to positions allocated to the class and the minimum qualifications requisite thereto.

1.1(10) *"Classification plan"* means the orderly arrangement of positions within the

*Printer's error corrected.

classified service into separate and distinct classes, so that each will contain those positions which involve substantially similar or comparable skills, duties and responsibilities.

1.1(11) *"Classified employee"* means an employee occupying a position in the classified service or an employee currently on leave in accordance with established leave regulations.

1.1(12) *"Commission"* means the Iowa merit employment commission.

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

1.1(14) *"Department"* means the Iowa merit employment department.

1.1(15) *"Detail to special duty"* means the temporary assignment of a classified employee to perform the duties and responsibilities of a position other than the ones to which he is regularly assigned without prejudice to his rights in and to his regularly allocated position.

1.1(16) *"Director"* means the director of the Iowa merit employment department.

1.1(17) *"Eligible list"* means an officially promulgated list of eligibles for a class of position in the order of their final rating in an examination as provided herein.

1.1(18) *"Established position"* means a position duly approved by statute or the executive council which is funded and allocated to an appropriate class.

1.1(19) *"Examination"* means all the tests of fitness that are applied to determine eligibility of applicants for positions in any class in the classified service.

1.1(20) *"Geographic list"* means an officially established list of eligibles residing in a county, or other designated administrative area, in the order of their final rating in an examination.

1.1(21) *"Grievance"* means any expressed difference, dispute or controversy between an employee and the appointing authority or his representative with respect to circumstances and conditions which concern their working relationship in the agency.

1.1(22) *"Minimum qualifications"* means the requirements of training and experience and other qualifications, including those to be measured by an appropriate examination, as prescribed in the job specification for the class of position.

1.1(23) *"New position"* means a position not previously existing.

1.1(24) *"Open-competitive examination"* means an examination which permits the competition of persons who meet the minimum requirements of the official announcement for the class of position, and is not restricted to persons currently employed in the classified service.

1.1(25) *"Part-time position"* means a position requiring the services of an employee for less than a standard or nonstandard work week on a continuing basis.

1.1(26) *"Pay plan"* means a schedule of salaries or hourly wages established for the several classes recognized in the state classification plan.

1.1(27) *"Permanent employee"* means an employee who has completed the required probationary period or who has acquired permanent status in conformity with the merit employment Act.

1.1(28) *"Position"* means a group of specific duties, tasks and responsibilities assigned by the appointing authority to be performed by one employee; a position may be part time or full time, temporary or permanent, occupied or vacant.

1.1(29) *"Probationary employee"* means a person certified from a list of eligibles or employed through a work test appointment and serving a probationary period.

1.1(30) *"Probationary period"* means a working test period and is a part of the examination process following an original appointment, during which the employee is required to demonstrate his fitness for the position to which he is appointed by the satisfactory performance of the duties and responsibilities of the position to which appointed.

1.1(31) *"Promotion"* means a change of a permanent classified employee from

*Printer's error corrected

a position in a lower classification to a position in a higher classification having assigned duties and responsibilities of a higher level of performance standards, skills and knowledge requirements with a higher entrance salary, a higher maximum rate of pay or a higher pay grade.

1.1(32) *"Reallocation"* means the reassignment or change in the allocation of a position by raising it to a higher, reducing it to a lower, or moving it to another class of the same level on the basis of significant changes in the kind or difficulty of the tasks, duties and responsibilities in such position, or because of an amendment to the classification plan, and officially assigning to that position the class title for such appropriate class of position.

1.1(33) *"Reinstatement"* means the re-employment of a permanent employee as provided in these rules, or the placing of a probationary or permanent employee's name back on a list of eligibles as provided herein.

1.1(34) *"Statewide list"* means a list of eligibles for a class of position, who have indicated their willingness to accept employment wherever a particular vacancy exists, ranked in the order of their examination scores.

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

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

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

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

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

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

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

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

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

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

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

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

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

*Printer's error corrected.

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

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

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

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CHAPTER 2
STATE SERVICE AND ITS DIVISIONS

570—2.1(19A) Exempt service. The exempt service shall include those positions as determined by the commission in accordance with the provisions of section 19A.3 of the Code. The director may, upon request, assist and advise appointing authorities concerning salary rates appropriate for positions in the exempt service.

570—2.2(19A) Classified service. The classified service shall consist of all positions now existing or hereafter created and not included in the exempt service. There shall be in the classified service three divisions, to be known as Division "A", Division "B", and Division "C".

2.2(1) *Division "A"* shall include only those positions and employments for which it* is practicable to determine the merit and fitness of applicants by assembled examination.

2.2(2) *Division "B"* shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character and for which an unassembled examination may be used.

2.2(3) *Division "C"* shall include positions involving unskilled, semiskilled, domestic, attendant or custodial work.

The director shall assign each class in the position classification plan to Division "A", "B", or "C".

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

*Printer's error corrected.

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

2.3(1) Whether the contract is with a recognized existing organization rather than with an individual, and the organization has the facilities and expertise to fulfill the contract. However, a contract with an individual may be appropriate if he is an independent "entrepreneur".

2.3(2) Whether the contract clearly indicates the "independent contractor" concept with the agency having no direct administrative or supervisory responsibility of the day-to-day carrying out of the contract. So long as the agency has the right to control both the method and result of the services, the individuals involved cannot be considered as independent contractors.

2.3(3) Whether the contract includes a terminal date with the end product (report, service to be accomplished, etc.) clearly set forth.

2.3(4) Whether the agency is withholding various taxes from the individual's salary. If the individual is on the agency payroll and income taxes are withheld, it is obvious that the agency is the employer and the individual is not working for or as an independent contractor.

[Filed 4/11/69; amended 12/1/72]

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CHAPTER 3
CLASSIFICATION PLAN

570—3.1(19A) Preparation, adoption and maintenance of the classification plan for the classified service.

3.1(1) The commission shall review agency recommendations, hear suggestions, ascertain the actual duties, tasks and responsibilities of all classified positions and adopt a uniform classification plan.

3.1(2) The classification plan shall set forth for each class of position a class title, definition, examples of work performed, knowledges, abilities, skills, personal characteristics, minimum qualifications and special requirements that are necessary for satisfactory performance in the class.

3.1(3) The classification plan shall be so developed and maintained that all positions which are substantially similar and comparable with respect to kind, difficulty and responsibility of work are included in the same class; that the same means of recruitment and appropriate examination method may be used in filling all positions within a class; and; that the same schedule of pay may be applied with equity to all positions in a class in the same geographical area.

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

3.1(5) Each position in the state classified service may be reviewed at periodic intervals to determine if the position is properly allocated. Requests for individual position reviews may be initiated by the appointing authority or by a permanent classified employee(s). Agency or employee(s) position review requests shall be evaluated within ninety working days after the request is received by the merit employment department. Both the appointing authority and the permanent classified employee(s) shall be notified of the tentative classi-

fication determination of the merit employment department. This tentative classification determination of the merit employment department shall be reduced to writing whenever the tentative classification determination is not in agreement with the recommendation of the appointing authority or the permanent classified employee(s). Either the appointing authority or the permanent classified employee(s) may file, on forms prescribed and furnished by the merit employment department, a request for reconsideration of the tentative classification determination stating the specific reason(s) and rationale which would support the request for reconsideration. Information so provided will be evaluated and a final classification shall be rendered within thirty working days after receipt of the reconsideration request by the director. In the event the second evaluation of the position(s) and the subsequent final classification determination(s) of the director is not acceptable to the appointing authority or the permanent classified employee(s), that determination may be appealed to a classification review board. The appeal request to a classification review board must be made and received by the director within thirty working days following the receipt of the final classification* determination of the director. Classification review board appeal hearings shall be scheduled at periodic intervals as the need determines and at locations and times that shall provide sufficient advance notice that all concerned parties may make suitable arrangements. All classification review board appeal hearings shall be scheduled during regular working hours. Travel and related costs shall be borne by the appellant(s). Decisions of the classification review board shall be final and binding upon the appointing authority, the permanent classified employee(s) and the merit employment department for a period of one year from the date of the classification review board's decision. The classification review board's decision shall not be subject to further internal review until such time as significant changes in duties and responsibilities can be shown. Judicial review of the classification review board's decision shall be provided under chapter 17A of the Iowa Code.

*Printer's error corrected

3.1(6) Allocations and reallocations approved by the merit employment department or a classification review board shall become effective at the beginning of the next regular pay period after the position(s) change form has been approved by the state comptroller's office indicating that funds are available for the allocation change. If funds are determined not to be available, the original allocation shall be maintained until such time as the approved position* change can be funded and shall not be retroactive.

3.1(7) The commission may delegate to the director such of their duties as imposed under 3.1(19A) and subdivisions as they deem necessary or expedient for the needs of the classified service.

570—3.2(19A) Creation and allocation of new positions. When a new position, or positions, as approved by the executive council, are to be established, the appointing authority shall notify the director in writing and furnish job descriptions. The director shall study the duties and responsibilities of the new position, or positions, and determine the proper classification. If an appropriate classification does not already exist, he shall prepare a new class specification to cover the position or positions, and they shall be allocated and approved as set forth in 3.1(19A) of this chapter.

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

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

570—3.5(19A) Class specifications. The class specification, along with classification standards and desk audits, shall be considered in allocating positions and specifications shall be interpreted as follows:

3.5(1) Class specifications are descriptive only and are not restrictive. The use of a particular expression of duties, qualifications, requirements or other attributes shall not be held to exclude others not mentioned but germane to the class concept.

3.5(2) In determining the class to which any position shall be allocated, the specification for each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities required and relationship to other classes as affording together a picture of the positions that the class intended to include.

*Printer's error corrected.

3.5(3) A class specification shall be construed as a general description of the kinds of work characteristic of positions properly allocated to that class and not as prescribing what the duties of any position shall be, nor as limiting the expressed or implied authority of the agency, now or hereafter vested with the right to prescribe or alter the duties of any position.

3.5(4) The fact that all of the actual tasks and duties performed by the incumbent of a position do not appear in the specification of a class to which the position has been allocated shall not be taken to mean that the position is necessarily excluded from the class, nor shall any one example of a typical task taken without relation to other parts of the specification be construed as determining that a position should be allocated to the class.

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

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

570—3.7(19A) Assignment of leadworker duties. Whenever a permanent classified employee, who is performing the same duties as other employees in his/her class, is assigned limited supervisory duties such as distribution of work assignments, maintaining a balanced work load among a group, keeping records of work, production or attendance and which duties do not justify reallocation to a supervisory class, the appointing authority may request the director to approve the person as a "leadworker".

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

570—3.8(19A) Position numbering system. The director in co-ordination with the office of the state comptroller shall develop a position numbering system that will uniformly identify the agency and position location, the class code number and the position number of each established position in the classified service.

[Filed 9/18/70]

[Filed 8/2/78, Notice 6/28/78—published 8/23/78, effective 9/27/78]

CHAPTER 4
PAY PLAN

570—4.1(19A) Preparation and adoption of the pay plan. The director, after consultation with appointing authorities, shall prepare and recommend to the commission a pay plan for all classes of positions in the classified service.

4.1(1) *Factors to be considered in preparing the pay plan.* Pay grades shall be related directly to the position classification plan for the classified service and shall be determined with due consideration to pay grades for other classes, the relative difficulty and responsibility of work in the several classes, the recruiting experience of the state, the

*Printer's error corrected.

mission, does not require qualifications substantially higher than or different from those of the class previously held. If there is no such class, the layoff provisions of these rules shall apply. Periods of leave, with or without pay, in excess of thirty calendar days, shall adjust the increase* eligibility date.

If any provision of 14.8(19A) is in conflict with the terms and conditions of a properly executed collective bargaining agreement, the terms and conditions of the collective bargaining agreement shall prevail.

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

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

570—14.10(19A) Holidays. Holidays shall be granted in accordance with state law and the governor or Iowa executive council's proclamations.

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

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

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

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

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

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

570—14.11(19A) Military leave. A probationary employee or a permanent classified employee who is a member of the national guard, organized reserve or any component part of the military, naval, air force or nurse corps of the state of Iowa or the United States or, who is or may otherwise be inducted into the military service of the state of Iowa or the United States shall, when ordered by proper authority to active state or federal service, be granted leave for the period of such active state or federal service, without loss of pay during the first thirty days of such leave of absence. Rights upon return from military leave shall be in accordance with the provisions of 14.8(19A).

570—14.12(19A) Maternity leave. Maternity leave shall be granted to permanent or probationary female classified employees when requested and supported by competent medical determination of pregnancy disability, normally not later than the seventh month of

*Printer's error corrected.

pregnancy, but may be extended by the appointing authority where requested by the employee, if supported by competent medical determination and working conditions permit extension. Such leave shall expire not later than two months after the birth of the child, unless extended by the action of the appointing authority. Reinstatement shall be in accordance with 14.8(19A).

570—14.13(19A) Election leave. Any classified employee not subject to the federal Hatch Act, who becomes a candidate for paid, partisan elective office, shall be granted leave without pay, voluntarily or involuntarily, commencing thirty days prior to the particular primary or general election and continuing until the classified employee is eliminated. Rights upon return after elimination shall be the same as those provided under 14.8(19A).

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

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

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

570—14.15(19A) Abandonment of position. Any classified employee who is absent from duty for three consecutive work days without proper notification and authorization thereof shall be deemed to have resigned his position.

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

These rules are intended to implement section 19A.9 of the Code.

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NURSING BOARD[590]

CHAPTER 1
ACCREDITATION OF NURSING EDUCATION PROGRAMS

590—1.1(147) Description and organization of the Iowa board of nursing.

1.1(1) *Description of agency.* The board derives its authority for nursing education, the practice of nursing and continuing education for nurses under the provisions of chapters 147 and 152 of the Code, and Acts of the Sixty-seventh General Assembly, 1977 session, chapter 95.

a. Responsibility for nursing education includes but is not limited to:

(1) Development and implementation of minimal standards for the accreditation of nursing programs.

(2) Development and implementation of minimal standards for the approval of clinical facilities utilized by nursing programs.

(3) Consultation with nursing programs and clinical facilities.

(4) Collection and computation of statistical data relating to nursing education.

(5) Promotion and elevation of educational standards for nursing.

b. Responsibility for the practice of nursing includes but is not limited to:

(1) Enforcement and upholding qualifications for licensure which are essential for safe practice.

(2) Licensure of registered nurses and licensed practical nurses which involves administering the licensing examination, renewal of licenses, verification of licensure to and from other jurisdictions and collection of related fees.

(3) Investigations of complaints and purported violations of the nurse practice act, holding hearings and taking appropriate action.

(4) Collection and computation of statistical data relating to nursing practice.

(5) Promotion and elevation of professional standards of nurses and nursing.

c. Responsibility for continuing education includes but is not limited to:

(1) Development and implementation of minimum continuing education requirements as a prerequisite to the license renewal of registered nurses and licensed practical nurses in the state.

(2) Development and implementation of minimum requirements for all institutions (providers) offering continuing education for registered nurses and licensed practical nurses in the state.

(3) Development and implementation of minimum rquirements for re-entry of the registered nurse and licensed practical nurse whose license has been on inactive status.

(4) Exploration of creative approaches which will enhance accessibility to educational offerings.

(5) Articulation with local, regional and national planning groups to express continuing education requirements in uniform and widely recognized terminology.

(6) Establishment of a means of measuring and evaluating continuing competency without jeopardizing or limiting the manpower resources.

1.1(2) *Organization of agency.* The board is comprised of four registered nurses, one licensed practical nurse and two representatives of the general public. The members are appointed by the governor and confirmed by the senate. The term of office is for three years and a member may not serve more than three terms or nine years. The board:

a. Is the policy making body for all matters relative to nursing education, the practice of nursing and continuing education for nurses.

beginning thirty days after the expiration date up to three years and who wishes to practice nursing shall request, in writing, reinstatement of license.

(1) Upon receipt of the written request, an application for reinstatement of a license shall be mailed.

(2) Upon receipt of the completed application form, all renewal fees to date then due and a penalty fee of $50.00, the license shall be reinstated. A current license to practice nursing shall be issued by the board.

b. A licensed practical nurse who has allowed his or her license to lapse for three or more years consecutively and who wishes to practice nursing shall request, in writing, reinstatement of license.

(1) Upon receipt of the written request, an application for reinstatement of a license shall be mailed.

(2) Upon receipt of the completed application form, a notice of hearing as provided for in rule 1.2(152) shall be sent to the licensed practical nurse.

(3) The license shall have the right to appear in person or by attorney before the board at the licensee's expense.

(4) Following the hearing before the board, the licensed practical nurse may be required to demonstrate competency to practice nursing. The board may require the licensed practical nurse to demonstrate this competency by achieving a passing score on an examination approved by the board.

(5) Upon determination that requirements for reinstatement are met, and upon receipt of all renewal fees to date then due and a penalty fee of $50.00, the license shall be reinstated. A current license to practice nursing shall be issued by the board.

c. A licensed practical nurse who has allowed his or her license to lapse as defined in this subrule and who request that a certified statement of said license in this state be sent to another state, territory, etc., shall be required to comply with either *"a"* or *"b"* of this subrule, depending on which is appropriate, prior to this certified statement being sent.

This rule is intended to implement sections 147.11 and 147.80 of the Code.

590—4.4(147) Rescinded effective June 21, 1976.

590—4.5(147) Enforcement—discipline of licensees.

4.5(1) All complaints regarding licensees or those purporting to be licensed practical nurses shall be investigated by the staff or inspector of the board of nursing.

4.5(2) In investigating such complaints the licensee may be asked to appear at a board meeting for consultation by board members.

4.5(3) The board may accept the voluntary surrender of a license.

4.5(4) Any person whose license has been revoked or suspended may apply to the board for reinstatement at any time. Upon submission of documentary evidence of rehabilitation of the licensee, the board may reinstate the license or remove the license from suspension. The board may impose reasonable terms and conditions in conjunction with such action.

4.5(5) An Iowa license to practice nursing as a licensed practical nurse will not be issued by endorsement to an individual whose license to practice is under revocation, suspension, or, if applicable, probation, in another state.

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CHAPTER 5
CONTINUING EDUCATION AS A PREREQUISITE TO LICENSE RENEWAL

590—5.1(152) Definitions.

5.1(1) *Active licensee.* Means a registered nurse/licensed practical nurse in Iowa who has met all conditions of license renewal and maintains a current license to practice in this state.

5.1(2) *Approved continuing education programs.* Means those programs offered by a provider who has been approved by the Iowa board of nursing.

5.1(3) *Approval number.* Means the number assigned by the Iowa board of nursing to designate an approved provider.

5.1(4) *Audit.* Means that system whereby the Iowa board of nursing will routinely select and examine, in accordance with pre-established criteria, the documentation of meeting continuing education requirements prescribed by the board which has been supplied by the licensee; and the documentation of meeting the continuing education requirements to be recognized as an approved provider which has been supplied by the provider.

5.1(5) *Board.* Means the Iowa board of nursing.

5.1(6) *Conference/institute.* Used interchangeably. Means a formal offering (usually a series of meetings) for instruction and information in a particular area of nursing practice.

5.1(7) *Contact hour.* Means at least fifty minutes of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction.

5.1(8) *Continuing education.* Means that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure to develop new and relevant skills and knowledge. This education may be obtained through formal or informal education practices, self-study, research, and participation in professional and technical, and occupational societies, and by other similar means as authorized by the board.

5.1(9) *Course.* Means a series of learning experiences dealing with a specific content.

5.1(10) *Criteria.* Means those standards by which the provider shall be evaluated to determine if requirements as defined in 5.3(2) of these rules are met.

5.1(11) *Current license.* Means the license issued to an active licensee for each renewal period.

5.1(12) *Delinquent licensee.* Means a registered nurse/licensed practical nurse in Iowa who allows his/her license to practice nursing to lapse by failing to renew said license or by failing to request to be placed on the inactive list in this state.

5.1(13) *Formal academic studies.* Means formal courses offered by an institution of higher education for academic credits.

5.1(14) *Inactive licensee.* Means a registered nurse/licensed practical nurse in Iowa who has met all conditions of officially placing his/her license on inactive status and may not practice nursing in this state until such time re-entry requirements as defined in these rules are met.

5.1(15) *Inactive licensee re-entry.* Means that process a former or inactive professional or occupational licensee pursues to again be capable of actively and competently practicing as a professional or occupational licensee.

5.1(16) *Informal continuing education.* Means an organized program of learning, sponsored by an approved provider, excluding orientation programs and on-the-job training.

5.1(17) *Inservice education.* Means planned instruction designed by an approved provider and offered by an employer in an employment setting.

5.1(18) *Lecture.* Means a discourse given before an audience for instruction.

5.1(19) *Licensing.* Includes the terms "registration" and "certification" and their derivations.

5.1(20) *Monitoring.* Means that system(s) prescribed by the Iowa board of nursing to determine if the licensee and provider are meeting continuing education requirements as prescribed.

5.1(21) *On-the-job.* Means incidental instruction given by an employer to improve the performance of an employee in a given task. This is not approved for continuing education credits.

5.1(22) *Peer review.* Means evaluation of professional services rendered by a professional practitioner.

5.1(23) *Peer review committee.* Means one or more persons acting in a peer review capacity pursuant to Acts of the Sixty-seventh General Assembly, 1977, chapter 95.

5.1(24) *Provider.* Means those persons, organizations, or institutions approved by the Iowa board of nursing to supply continuing education offerings.

5.1(25) Reserved for future use. (Refresher course definition)

5.1(26) *Self-instructional activities used interchangeably with self study.* Means independent, individual learning activities which are organized to meet clearly defined objectives and which are consummated by a valid type of testing for cognitive or affective skills. A self-instructional activity shall be developed under the guidance of an approved provider. Contact hours or continuing education units (CEU's) shall be based on equivalent class hours, as determined by the provider.

5.1(27) *Seminar.* Means a small group of people who meet under leadership of a resource person(s). Participants become actively involved in some aspect of a problem which is discussed and analyzed.

5.1(28) *Workshop.* Means a program designed to bring together individuals with a common interest and background to engage in educational experiences, in order to solve common problems and to gain new knowledge, skills, and attitudes. The participants usually meet for a continuous period of time for one or more days in general sessions and face to face discussion groups. During these sessions, participants take part in a combination of instruction, laboratory, or experimental skill, training, and problem solving. Although consulting experts are used, the ultimate responsibility for achieving the learning objectives is borne by the participants.

590—5.2(152) General requirements—continuing education.

5.2(1) *Registered nurses/licensed practical nurses.* The board derives its authority to create continuing education requirements as a prerequisite to obtain a current license for registered nurses and licensed practical nurses (hereafter referred to as the licensee) under the provisions of Acts of the Sixty-seventh General Assembly, 1977, chapter 95.

a. In accordance with the Code, every license to practice nursing in the state of Iowa shall expire annually as determined by the board and shall be renewed annually upon application by the licensee without examination. Licensure status is considered by the board to fall into one of the following categories as defined in rule 5.1(152) Definitions:

(1) Active licensee.

(2) Inactive licensee.

(3) Delinquent licensee.

b. Beginning April 1, 1979, each active licensee shall be required, as a prerequisite to the 1980 license renewal, to comply with continuing education requirements as prescribed by the board. Continuing education programs taken by the licensee prior to April 1, 1979, shall not be considered by the board.

c. On or before April 1, 1980 and each subsequent renewal period, a renewal application and a list of approved providers to date shall be sent to each active licensee, by mailing to the last known address. A provider not appearing on the approved list may be verified by checking their advertisement or brochure to determine approval by the board and provider number assigned or calling the office of the board.

(1) To obtain an active license for the next renewal period, the licensee shall be required to submit documentation on the renewal application form that the requirements prescribed

by the board have been met through an approved provider. All continuing education requirements must be completed by March 31.

(2) Falsification of any information contained within this application form shall be deemed as fraud and deceit and shall result in appropriate proceedings being initiated by the board to determine if probable cause exists for license revocation, suspension, or probation as defined in rule 1.2(17,147,152) administrative hearings.

(3) Failure to receive said renewal application shall not relieve the licensee of the responsibility of meeting said requirements.

d. Failure of the licensee to comply with the continuing education requirements as prescribed by the board prior to the expiration of license, unless waived under the provisions of subrule 5.2(1), paragraphs "*e*", "*f*", or "*g*":

(1) Shall result in the current license in the possession of the licensee being terminated on June 30; and

(2) Shall result in the licensee being required to comply with subrules 3.3(1), 3.3(3), 4.4(1), or 4.4(3), depending on which subrule is appropriate to the circumstances of the licensee, prior to a current license being issued; and

(3) Shall result in the licensee being required to meet the inactive licensee re-entry requirements to obtain a current license.

e. In accordance with the Code, a person licensed to practice an occupation or profession in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, or for periods that the person is a government employee working in his or her licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate board of examiners.

(1) No waiver under this section of the Code shall be granted unless written application thereof shall be made on the forms provided by the board and signed by the licensee.

(2) Waivers under this section of the Code may be granted by the board for any period of time not to exceed twelve months. In the event that this section of the Code remains applicable to the licensee beyond the period of the waiver, the licensee must reapply for an extension of the waiver.

(3) Falsification of the information contained within this application form shall be deemed as fraud and deceit and shall result in appropriate proceedings being initiated by the board to determine if probable cause exists for license revocation, suspension, or probation as defined in rule 1.2(17,147,152) administrative hearings.

f. The board may, in individual cases involving physical/mental disability or illness, grant waivers of the continuing education requirements or extensions of time within which to fulfill the same or make the required reports.

(1) No waiver or extension of time shall be granted unless written application thereof shall be made on forms provided by the board and signed by the licensee and a physician licensed by the board of medical examiners.

(2) Waivers of the continuing education requirements may be granted by the board for any period of time not to exceed twelve months. In the event that the physical/mental disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver.

(3) The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the continuing education requirements waived by such methods as may be prescribed by the board.

(4) Falsification of any information contained within this application form shall be deemed as fraud and deceit and shall result in appropriate proceedings being initiated by the board to determine if probable cause exists for license revocation, suspension, or probation as defined in rule 1.2(17,147,152) administrative hearings.

g. Beginning April 1, 1979, continuing education requirements as prescribed by the board shall be met by the graduate from an Iowa nursing program in accordance with the following schedule:

(1) Graduate nurses who write the July licensing examiation for registered nurse licensure and become licensed, will not be required to begin continuing education requirements until the following April.

(2) Graduate nurses who write the February licensing examination for registered nurse licensure and become licensed, will not be required to begin continuing education requirements until one year from the following April.

(3) Graduate practical nurses who write the October licensing examination for practical nurse licensure and become licensed, will not be required to begin continuing education requirements until the following April.

(4) Graduate practical nurses who write the April licensing examination for practical nurse licensure and become licensed, will not be required to begin continuing education requirements until the following April.

h. Reserved for future use. (Endorsement rules)

i. A licensee who holds both a registered nurse and licensed practical nurse license shall satisfy the continuing education requirements for both licenses if said licensee wishes to maintain both licenses current.

5.2(2) *Providers-initial approval process.* The board derives its authority to create requirements as a prerequisite to obtaining approval as a provider of continuing education for registered nurses and licensed practical nurses (hereafter referred to as the licensee(s) under the provisions of Acts of the Sixty-seventh General Assembly, 1977, chapter 95.

a. Beginning December 1, 1978, a written request to become an approved provider of continuing education for licensees in Iowa may be submitted to the office of the board.

(1) Upon receipt of the written request, an application form shall be sent to the person, organization, institution, etc., making the request. Said application form being sent shall include the specific requirements for recognition by the board as an approved provider outlined in 5.3(2) of these rules as well as the "Criteria for Review of Provider Applications" as approved by the board.

(2) Upon receipt of a completed application, a form letter shall be sent to the person, organization, institution, etc., submitting the application which acknowledges date of receipt and date, time and place the application will be scheduled for a preliminary review by appointees of the board. Said preliminary review shall be held in Des Moines, Iowa, conducted within sixty days subsequent to date application is received and open to the public.

b. The preliminary review of the application shall be conducted by no less than three appointees of the board for the purpose of determining if in the majority of the appointees' opinion, requirements for recognition by the board as an approved provider outlined in 5.3(2) of these rules have been met. The "Criteria for Review of Provider Applications" as approved by the board shall be used during the preliminary review of said application. Appointees of the board may be either board members or professional staff members; however, at least one board member shall be one of the three appointees.

(1) The presiding officer of a preliminary review of an application shall, among other things, open the record, receive scheduled oral presentations in order of the agenda, rule on appearances not scheduled on the agenda, "follow Criteria for Review of Provider Application" and adjourn the meeting.

(2) The person, organization, institution, etc., making application may make oral presentation, not to exceed one-half hour, during the preliminary review of their application. A written request to make said oral presentation shall be submitted to the office of the board, two weeks prior to date of review.

(3) The appointees of the board conducting a preliminary review of the application shall have the authority to recommend approval/nonapproval of an application to the board. Said recommendation shall be based on the majority vote of said appointees and shall

include, if a recommendation for nonapproval is made, a written statement(s) citing the requirement(s) which has not been met.

(4) The application and recommendation of the appointees of the board shall be issued and sent to the board within ten working days subsequent to the date of review. A copy of the recommendation of the appointees of the board shall also be sent to the provider applicant within ten working days subsequent to the date of review. Review and action on said recommendation by the board shall be during their next regularly scheduled meeting following issuance of the appointees' recommendation.

c. A person, organization, institution, etc., who receives notification that approval of their application was not recommended by the appointees of the board may do one of the following:

(1) Appeal said decision in writing to the board denoting the specific reasons for appealing the recommendation of the appointees. Said appeal shall become a part of the recommendation of the appointees to be received and acted upon by the board. Said appeal may not include changes, addendums, etc., to the original application submitted.

(2) Submit an addendum to their initial application for preliminary review by appointees of the board which addresses those areas cited by said appointees as being a requirement(s) not met.

d. The board shall notify the person, organization, institution, etc., of the approval/nonapproval of the application submitted.

(1) If approval as a provider has been granted by the board, notification of said action shall include the length of time for which approval has been granted, not to exceed five years, and the number which has been assigned by the board to the provider.

(2) If approval as a provider has not been granted by the board, notification of said action shall include a written statement(s) citing the requirement(s) which have not been met, within twenty working days.

5.2(3) *Providers-continual approval process.* Initial approval of a provider, as outlined in 5.2(2) of these rules, may be granted for a period of time established by the board. The period of time granted by the board shall be no less than one year, however, shall not exceed five years.

a. An approved provider shall receive notification of review by the board for continued listing as a provider three months in advance. Said review procedure shall be in accordance with the initial approval process as defined in 5.2(2) of these rules.

b. An approved provider shall, in addition to 5.2(3)"*a*", of these rules, be subject to periodic review by the board which may include any or all of the following:

(1) Submission of a specified number of offerings, not to exceed three, which evidence adherence to 5.3(2)"*d*" of these rules. Notification to the approved provider that said offering(s) is to be submitted to the board two months in advance.

(2) Unannounced and unspecified survey visits by the representatives of the board for the purpose of reviewing course outlines, instructor qualifications, recordkeeping systems, evaluation mechanisms, auditing a course, etc.

(3) Submission of roster(s) which specify course name, date, number of contact hours awarded and names of participants.

c. An approved provider shall submit to the Iowa board of nursing all brochures and advertisements prior to their continuing education offerings.

d. An approved provider may be placed on probation having once been approved, if in the opinion of the board, said provider no longer meets a requirement(s) as specified in 5.3(2) of these rules. Notification of being placed on probation shall be within twenty working days of such decision by the board.

(1) A provider, not in agreement with being placed on probation shall have twenty working days from the date of receipt of notification to submit a statement(s) showing cause why such action on the part of the board should not be taken. This statement(s) shall be acted upon by the board in accordance with the Iowa board of nursing bylaws, Article 12 (Interim Transaction of Official Business).

(2) A provider, in agreement with being placed on probation shall have ninety working days from the date of receipt of notification to submit a statement(s) which addresses those changes and/or improvements in the areas cited by the board as being requirement(s) not met. Said statement(s) shall be subject to the preliminary review by appointees of the board and conducted in accordance with the initial approval process as defined in 5.2(2) of these rules.

e. A provider whose full approval status has not been restored at the end of ninety working days shall not profess and/or advertise to the public as an approved provider by the board. The number assigned to said provider shall neither appear in any brochures, advertisements, etc., published, nor be placed on any certificates, diplomas, etc., awarded by same.

f. Misrepresentation on application by a provider may result in immediate withdrawal of approval.

5.2(4) *Provider exemptions.* Exemptions to the provisions of 5.2(2) and 5.2(3) of these rules may be granted by the board, to a provider. In granting said exemptions, provider numbers shall be issued for the purpose of the licensee being able to document on the renewal application when continuing education requirements have been met.

a. Exemptions from the provisions of 5.2(2) and 5.2(3) of these rules shall be granted by the board for the following reasons:

(1) A nursing program approved by the board to offer an associate degree in nursing, a diploma in nursing, a baccalaureate degree in nursing, a masters degree in nursing or a doctoral degree in nursing to licensees wishing to further their nursing education.

(2) An area community college/vocational-technical institute, college and/or university offering formal academic credit toward a non-nursing degree. Academic courses taken by licensees at such institutions shall be applicable toward fulfilling mandatory continuing education requirements only if courses taken relate to subject matter as outlined in 5.3(1)"*e*" of these rules.

b. A nursing program, institution, etc., which has been granted an exemption, shall be required to make application as an approved provider under the provisions stated in 5.2(2) and 5.2(3) of these rules if said nursing program, institution, etc., wishes to offer continuing education to licensees which does not fall within the exemptions specified. In such instances a second provider number shall be assigned for the purpose of distinguishing between the exempt division of the nursing program, institution, etc., and the division of continuing education needing board approval.

c. Nursing programs, institutions, etc., in Iowa falling within the exemptions as outlined in 5.3(3)"*a*" of these rules shall automatically receive notification from the board beginning January 1, 1979 that they are exempt from the provisions stated in 5.2(2) an 5.2(3) of these rules and shall be assigned a provider number which the licensee shall use to denote enrollment in their nursing program, institution, etc.

590—5.3(152) Specific requirements—continuing education.

5.3(1) *Registered nurses/licensed practical nurses.* The licensee shall show evidence of adherence to the following criteria indicative of being capable of actively and competently practicing nursing:

a. Fifteen contact hours or 1.5 continuing education units (CEU's) shall be required for an active licensee renewing a license annually.

b. Offerings to be approved for continuing education include:

(1) Informal meaning workshops, seminars, institutes, conferences, lectures, self-instructional activities, short term courses and inservice education.

(2) Formal meaning academic studies, including correspondence, extension and self-instructional courses offered by an institution of higher education.

c. Activities not specified in 5.3(1)"*b*" of these rules shall be considered appropriate only after approval has been obtained in writing from the board.

d. Activities which are included in the primary position responsibilities of the licensee will

not be accepted for meeting the requirements for continuing education.

e. Appropriate subject matter for continuing education offerings reflects the educational needs of the learner and health needs of the consumer and shall include one or more of the following:

(1) Nursing practice areas of medical/surgical, maternal and child care, community health, psychiatric and mental health, and gerontological nursing and special health care problems.

(2) Specific subject matter relating to nursing science and practice may include biological, physical, behavioral, and social sciences.

(3) Specific subject matter relating to social, economic, and legal aspects of health care.

(4) Specific subject matter relating to the management/administration of health care personnel and patient care.

(5) Specific subject matter relating to the management of learning experiences for patients and for students and personnel in the health care field.

(6) Subjects which are required as part of a formal nursing program which is advanced beyond that completed for original licensure may be approved for continuing education under this rule.

f. Subject matter not specified in 5.3(1)"*e*" of these rules shall be considered appropriate only after approval has been obtained in writing from the board.

g. Units of measurement used for continuing education courses shall be as follows:

(1) 1 hour=50 minutes of instruction

(2) 1 CEU=10 contact hours of instruction

(3) 1 semester hour=15 contact hours of instruction per semester.

(4) 1 college quarter hour=10 contact hours of instruction per quarter.

h. No more than 5 of the 15 contact hours specified in "*g*" may be obtained through self-instructional activities or courses.

i. The 15 contact hours specified in 5.3(1)"*g*" of these rules must be completed in the one-year period immediately preceding the renewal of license. Continuing education credits cannot be used retroactively nor accumulated for future use.

5.3(2) *Providers.* The approved continuing education provider shall have shown evidence of adherence or capacity to adhere to the following criteria indicative of the ability to provide quality continuing education activities:

a. The approved continuing education provider shall show evidence of adherence or capacity to adhere to criteria relating to the administration and organization of continuing education programs for registered nurses and licensed practical nurses:

(1) An approved provider shall have a qualified, visible, continuous, and identifiable administrative authority responsible for the continuing education program for nurses.

(2) An approved provider shall have a mechanism to insure active nursing participation in the administration and planning of continuing education offerings for nurses.

(3) An approved provider may work with others as long as all criteria are met, with the approved provider(s) being responsible for such assurance.

(4) Approved provider requirements include responsible promotion and advertising of activities that includes a statement of purpose and educational objectives, and the credentials of the faculty. The schedule of the activities, the cost and items covered by the fee, the amount of the continuing education credit that may be earned and identification as an approved provider by the Iowa Board of Nursing.

(5) An approved provider shall use a uniform measure of continuing education credit; that measure being the continuing education unit (CEU) defined as ten contact hours of participation (or its equivalent), in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction.

(6) Program administration will include a system for verification of satisfactory completion of the activity by each participant.

(7) A participant may submit a program evaluation directly to the board.

(8) An approved provider shall develop and promulgate policy(s) and procedures for the

management of continuing education programs including enrollee grievances and tuition refund.

b. The approved continuing education provider shall show evidence of adherence or capacity to adhere to criteria relating to the record maintenance of continuing education programs for registered nurses and licensed practical nurses:

(1) An approved provider shall maintain a system of recordkeeping which provides for storage and retrieval of individual attendance and information regarding each offering.

(2) An approved provider shall maintain records as contact hours or continuing education units.

(3) An approved provider shall furnish each participant with an individual record of attendance.

(4) Each provider shall maintain records for a minimum of four years.

c. The approved continuing education provider shall show evidence of adherence or capacity to adhere to criteria relating to the financial operation of continuing education programs for registered nurses and licensed practical nurses:

(1) The budget includes provision for planning continuing education activities, conducting continuing education activities, and evaluating continuing education activities.

(2) The total charges for the participant are published.

d. The approved continuing education provider shall show evidence of adherence or capacity to adhere to criteria relating to educational content development of continuing education programs for registered nurses and licensed practical nurses:

(1) Continuing education activities shall involve advanced planning for each continuing education offering that includes a statement of purpose and objectives that are measurable.

(2) Continuing education offerings for nurses shall be designed to satisfy appropriate educational needs.

(3) Each offering shall explore one topic or a group of closely related topics.

(4) The content of the program/offerings clearly relates to the stated purpose and objectives.

(5) Learning experiences are appropriate to achieve the objectives.

(6) Mediated and supportive material shall be suitable, apprioriate and reviewed for currency and quality on a regular basis.

e. There shall be an appropriate number of qualified and competent faculty who shall be knowledgeable, current and skillful in the subject matter of the offering. If the subject matter is nursing as defined in 5.3(1)"*e*"(1) of these rules, the faculty person(s) shall include a nurse(s).

f. The approved continuing education provider shall show evidence of adherence or capacity to adhere to the criteria relating to teaching methodologies of continuing education programs for registered nurses and licensed practical nurses:

(1) The method(s) of delivery for an activity shall be appropriate to the content, objectives, and composition of the audience and shall allow for and encourage active participation and involvement on the part of the participant.

(2) Principles of adult education shall be used in the proposed teaching strategies.

g. Facilities shall be appropriate and adequate for the size of audience and shall promote the attainment of the activity.

h. The approved continuing education provider shall show evidence of adherence or capacity to adhere to criteria relating to evaluation of continuing education programs for registered nurses and licensed practical nurses:

(1) Participant evaluation. An evaluation mechanism shall be provided for the purpose of allowing the participant to assess his/her achievement of program objectives and relevance of content in relationship to performance in job setting.

(2) There is a provision for each offering for evaluation of faculty effectiveness.

(3) Provider evaluation. The provider shall develop and employ evaluation techniques that will assess the effectiveness of the activities with a goal of continual provider and activity improvement.

(4) There is provision for participant evaluation of services, facilities, and resources utilized in the programming.

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2.6(3) *Provisional administrator.* In the event an existing nursing home loses the services of its licensed administrator and the home is unable to secure another licensed administrator, an unlicensed person may be employed as a provisional administrator for a period not to exceed six months. The owner of the nursing home shall apply to the board within fifteen days after the home has lost its licensed administrator for a provisional letter. The person appointed by the nursing home owner shall complete a regular application form furnished by the board. The two applications will be accompanied by a fee of thirty dollars for the examination of credentials. On or before the expiration of six months a licensed nursing home administrator shall be employed. During this six-month period the provisional administrator may prepare for licensure if the qualifications of these rules and section 147.120 are met. In the event a nursing home cannot secure a licensed nursing home administrator, the owner or governing body shall request consultation and assistance from the board.

2.6(4) *Notice and hearing.*

a. Denial of license and disciplinary actions.

(1) Any proposed action by the board refusing to renew, suspending, or revoking a license, shall be communicated to the applicant or licensee by certified mail, return receipt requested, and addressed to the last known place of business or residency at least thirty days in advance of the hearing on the proposed action of the board.

(2) Any applicant for a license whose application has been denied, shall be notified of the denial by regular mail. The notification of denial shall include notification that a hearing may be requested within thirty days after the mailing of the notice of denial. The request for a hearing to review the notice of denial shall be in writing by certified mail to the address given in subrule 2.6(2), paragraph "*a*".

b. Notice of hearing shall include, but not be limited to:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes and rules involved.

(4) 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.

c. 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.

d. 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.

2.6(5) *Subpoenas—discovery.*

a. The board shall have subpoena powers. 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 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.

2.6(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 or in summary, together with any exhibits produced, shall be furnished to the board at its next regular or special meeting.

2.6(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 may 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.

2.6(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 delivery to them of a copy of such 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.

2.6(9) *Voluntary surrender of license.* The board may accept the voluntary surrender of a license for any reason, including the grounds for revocation or denial of a license found in 2.4(2) in accordance with the following procedures:

a. The board, upon receipt of information that may result in a hearing to revoke or suspend a license, may notify the licensee by certified mail of such fact, requesting the licensee to appear before the board.

b. A licensee may request to be heard before the board upon any matter that may culminate in a hearing to revoke or suspend his or her license, with the purpose of informally settling the matter prior to any hearing.

c. If an informal settlement is reached, it shall be in writing, signed by the licensee and the chair of the board.

d. The board may require any conditions upon which the license is surrendered and the violation of any of the conditions may be grounds for revocation or suspension of the license pursuant to rules 2.6(4) to 2.6(8).

This rule is intended to implement section 135E.9 of the Code.

600—2.7(147) Reciprocity.

2.7(1) All applicants for licensure to practice as a nursing home administrator in the state of Iowa who hold a currently valid license from another state, issued by an acceptable examination, may make application for licensure by reciprocity with the board. All applications shall be considered on the individual's own merits.

2.7(2) A license to practice as a nursing home administrator shall be granted by the board without examination or by as much examination as may be required by the board to establish the proficiency of each applicant.

2.7(3) Upon being granted a license to practice nursing home administration, an Iowa

licensee shall thereafter comply with all rules for continuing licensure of nursing home administration in Iowa.

2.7(4) All applications for reciprocity shall be made on the official forms supplied by the Iowa board. The secretary shall mail the official application forms as requests are received.

600—2.8(147) Organization of board of examiners for nursing home administrators.

2.8(1) *Operating procedures.*

a. Chair.

(1) Shall be selected by the members of the board.

(2) Shall preside at meetings of the board. Meetings shall be conducted following Robert's Rules of Order.

(3) Shall appoint committees as is deemed necessary to study issues.

b. Vice-chair.

(1) Shall be selected by the members of the board.

(2) Shall act in capacity of chair in the absence of that officer.

c. Secretary.

(1) Shall be selected by the members of the board.

(2) Shall keep an accurate and complete record of all transactions of the board. Copies of all such records will become public records and will be on file in the Office of Licensing and Certification, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

d. Treasurer.

(1) Shall be selected by the members of the board.

(2) Shall participate in the establishing of the budget for the operation of the board.

e. Quorum.

(1) A two-thirds majority of this board will constitute a quorum.

(2) Business will not be conducted unless a quorum is present.

f. Meetings.

(1) Shall be held in Des Moines at least once a year.

(2) Shall be held on a regular basis, the date and place of which shall be established by the board.

(3) Regular meeting dates may be altered with a two-thirds vote of the members.

(4) The public may contact Licensing and Certification, Lucas State Office Building, State Department of Health, Des Moines, Iowa 50319 for information regarding time, date, location of meeting.

g. Additions. Additional officers may be elected if deemed necessary by the members of the board.

[Filed 2/23/71]

[Filed 3/19/76, Notice 2/9/76—published 4/5/76, effective 5/10/76]

[Filed 11/18/76, Notice 9/22/76—published 12/15/76, effective 1/19/77]

[Filed 8/28/78, Notice 3/8/78—published 9/20/78, effective 10/25/78]

[Filed 12/8/78, Notice 9/20/78—published 12/27/78, effective 1/31/79]

CHAPTER 6
GENERAL PROVISIONS

650—6.1(29C) The state emergency plan. The "Iowa Emergency Plan," dated March 23, 1977, is published and maintained by the state office of disaster services. The plan details state government response to a wide range of natural and manmade disasters.

1. The plan is distributed to all state agencies and departments which have been assigned emergency functions and to all county sheriffs and joint county/municipal disaster services co-ordinators.
2. The "Iowa Emergency Plan" serves as the basic state emergency response document. Several subplans have been developed to support the basic plan. These subplans outline procedure to follow in predisaster alert and warning and in postdisaster operations and recovery.
3. The state office of disaster services updates the plan, as required, and distributes updating amendments to all plan holders.
4. The plan and subplans are available for public view in the state office of disaster services.

This rule is intended to implement section 29C.8 of the Code.

650—6.2(29C) The state resources management plan. The "Iowa Emergency Resource Management Plan," dated December 1978, is published and maintained by the state office of disaster services. The plan provides for the emergency management of resources and economic stabilization activities.

1. An update of assigned resources priorities board officials is conducted at a minimum of every two years.
2. The plan is distributed to all state agencies and departments which have been assigned emergency functions, to all resources priorities board members, and to all county economic stabilization board chairpersons.
3. The plan is available for public view in the state office of disaster services.

This rule is intended to implement section 29C.8 of the Code.

650—6.3(29C) State resource management system. A resource management system is maintained by the state office of disaster services. The system contains an inventory of emergency use resources from the private sector and state and local governments.

1. The state office of disaster services annually surveys private, state and local agencies for emergency use resources to keep the system current.
2. In the event of a disaster or emergency, the state office of disaster services, upon request, provides information regarding the location and availability of needed resources.

This rule is intended to implement section 29C.8 of the Code.

650—6.4(29C) Co-operation with and support of the civil air patrol. The office of disaster services shall co-operate with and support the civil air patrol in accordance with the "Memorandum of Agreement Between Director, Office of Disaster Services, State of Iowa, and Commander, Iowa Wing Civil Air Patrol," dated July 26, 1976. The memorandum of agreement is published as a part of the "Iowa Emergency Plan," dated March 23, 1977.

This rule is intended to implement section 29C.5 of the Code.

[Filed 4/29/77, Notice 1/12/77—published 5/18/77, effective 6/22/77]
[Filed without Notice 12/8/78—published 12/27/78, effective 2/1/79]

CHAPTER 7
GENERAL REQUIREMENTS

650—7.1(29C) County eligibility requirements. Each joint county-municipal administration, or joint county board, after July 1, 1977, must meet eligibility requirements 7.1(1), 7.1(2), 7.1(4) and 7.1(5) before federal personnel and administrative matching funds or other program benefits will be authorized. Each joint county-municipal administration, or joint county board, after July 1, 1978, must meet eligibility requirements 7.1(1) to 7.1(5) before federal personnel and administrative funds will be authorized. Joint county-municipal administrations, or joint county boards, after July 1, 1978, may be eligible for all program benefits excluding personnel and administrative funds by appointing a qualified co-ordinator providing less than an average of twenty hours/week toward the disaster preparedness and recovery effort; eligibility requirements 7.1(1), 7.1(2), 7.1(4) and 7.1(5) must, however, be met.

7.1(1) Form a joint administration, appointing a chairperson and vice-chairperson.

7.1(2) Appoint a qualified co-ordinator possessing such qualifications as established by rule of the director of the state office of disaster services.

7.1(3) Appoint a qualified co-ordinator who provides a minimum average of twenty hours/week toward the disaster preparedness and recovery effort.

7.1(4) Complete a comprehensive county-wide disaster plan in consonance with standards established by the state office of disaster services.

7.1(5) Comply with standards and procedures required by the Defense Civil Preparedness Agency (DCPA) as specified in the "Federal Assistance Handbook, CPG 1-3," December 1976, current copies of which are on file and available for public view in the state office of disaster services.

This rule is intended to implement sections 29C.9 and 29C.13 of the Code.

650—7.2(29C) Local co-ordinator. The appointee representing the county may be a joint county-municipal co-ordinator, joint county co-ordinator, or county co-ordinator. The representative of the county serving as co-ordinator shall not be a member of the joint county-municipal disaster services and emergency planning administration, nor shall an elected official serve as co-ordinator. An individual serving in a full-time or part-time governmental position having incompatibility with the position of co-ordinator shall not be appointed as co-ordinator. The city co-ordinator shall not be an elected official. Other appointment restrictions pertaining to county representatives will not apply to city co-ordinators.

This rule is intended to implement section 29C.10 of the Code.

650—7.3(29C) Local co-ordinator qualifications. Each person appointed after July 1, 1977, as a county, joint county-municipal, or joint county co-ordinator in a state merit exempt status, shall meet requirements 7.3(1) to 7.3(11) of the following education, abilities, experience, knowledge, and skills; city co-ordinators shall meet requirements 7.3(5) to 7.3(10):

7.3(1) Knowledge of local, state, and federal laws and regulations pertaining to disaster services and emergency planning.

7.3(2) Knowledge of communications systems, frequencies, equipment capabilities, antenna systems, and federal communications commission regulations.

7.3(3) Knowledge of office management, procedures, and organizational principles.

7.3(4) Knowledge of basic accounting principles and practices.

7.3(5) Ability to express oneself clearly and concisely, both orally and in writing.

7.3(6) Ability to establish and maintain effective working relationship with employees, public officials, and the general public.

7.3(7) Ability to prepare accurate reports.

7.3(8) Ability to write plans and direct the use of resources and co-ordinate emergency operations under extraordinary circumstances.

SOCIAL SERVICES DEPARTMENT[770]

[See Table following analysis showing revised numbering]

CHAPTER 19
WOMEN'S REFORMATORY

CHAPTER 20
IOWA SECURITY MEDICAL FACILITY

CHAPTER 21
RIVERVIEW RELEASE CENTER

k. Marshalltown district; Grundy, Poweshiek, Hardin, Tama and Marshall counties.

l. Mason City district; Cerro Gordo, Hancock, Winnebago, Floyd, Kossuth, Worth, Franklin and Mitchell counties.

m. Ottumwa district; Appanoose, Keokuk, Davis, Lucas, Jefferson, Mahaska, Monroe, Wayne, Van Buren and Wapello counties.

n. Sioux City district; Cherokee, Plymouth, Ida, Woodbury and Monona counties.

o. Spencer district; Buena Vista, Emmet, Osceola, Clay, Lyon, Palo Alto, Dickinson, O'Brien and Sioux counties.

p. Waterloo district; Black Hawk, Bremer, Buchanan, Butler and Chickasaw counties.

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

770—1.5(17A) Certain rules exempted from public participation. The department finds that certain rules should be exempted from notice and public participation as being in a very narrowly tailored category of rules for which notice and public participation is unnecessary as provided in section 17A.4(2) of the Code. Such rules shall be those that are mandated by federal law or regulation; where the department has no option but to adopt such rule as specified; where federal funding is contingent upon the adoption of such rule; and such rules are promulgated in accordance with Title IV, XIX, or XX of the Social Security Act or the federal Food Stamp Act.

Notice and public participation would be unnececessary since the provisions of the law or regulation must be adopted in order to maintain federal funding and the department would have no option in the rule which was adopted.

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

[Filed 9/19/75, Notice 8/11/75—published 10/6/75, effective 11/10/75]
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[Filed without Notice, 9/12/78—published 10/4/78, effective 11/8/78]

CHAPTER 2

[Ch 2, 1973 IDR, renumbered as Ch 76]

Reserved

CHAPTER 3

[Ch 3, 1973 IDR, renumbered as Ch 77]

ORAL PRESENTATIONS ON PROPOSED RULES

770—3.1(17A) Requests. Persons as described in 17A.4(1) (b) of the Code who request oral presentations on a proposed rule, shall address such request to the same addressee specified in the notice of intended action for receiving written data, views, or arguments.

3.1(1) A separate request shall be made for proposed rules or rules under each notice.

3.1(2) A request shall be considered timely when received by the date specified in the notice of intended action for submission of written data, views, or arguments. Such date shall provide a minimum of twenty days from the date of publication for requests.

3.1(3) Requests for oral presentations received after the deadline shall not be accepted and shall be returned to the requester.

This rule is intended to impelement section 17A.4(1)"*b*" of the Code.

730—3.2(17A) Location of oral presentations. Oral presentations shall be held in the districts as defined in rule 770—1.4(17A).

3.2(1) When a request pursuant to rule 770—3.1(17A) is received, oral presentations shall be scheduled in each district in which a requester resides.

3.2(2) When a single request pursuant to rule 770—3.1(17A) is received from an association having not less than twenty-five members, oral presentations shall be scheduled in the district where the principle administrative headquarters of such association is located, or in an alternate district when specifically requested by such association.

This rule is intended to implement section 17A.4 of the Code.

770—3.3(17A) Notice of oral presentations. Notice of oral presentations shall be published in the Iowa Administrative Bulletin.

770—3.4(17A) Conduct of oral presentations. Oral presentations shall be conducted by a presiding officer designated by the commissioner of the department of social services.

3.4(1) A member of the department shall make a statement concerning the intended effect and purposes of the proposed rule changes, their necessity, their relation to any federal laws or rules or regulations, and any other matter relevant to the proposed rule changes.

3.4(2) At the time of oral presentations, each person wishing to speak shall make such intent known by signing a sheet or card. The presiding officer shall allow those persons an opportunity to make their presentations and then shall allow any other person in attendance to make presentations.

3.4(3) The presiding officer may exercise discretion to limit the time of each presentation to five minutes.

3.4(4) Whenever possible a speaker should submit testimony in written form.

3.4(5) A record shall be made of oral presentations either in the form of minutes or written or mechanical recording. A summary of the comments will be sent to individuals upon request.

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[Filed 6/25/76, Notice 3/22/76—published 7/12/76, effective 8/16/76]
[Filed emergency 5/8/78—published 5/31/78, effective 5/12/78]
[Filed 9/12/78, Notice 7/26/78—published 10/4/78, effective 11/8/78]
[Filed 12/6/78, Notice 5/31/78—published 12/27/78, effective 1/31/79]

CHAPTER 4

[Ch 4, 1973 IDR, renumbered as Ch 78]

PETITION FOR ADOPTION OF RULES

770—4.1(17A) Request. Any person requesting the promulgation, amendment, or repeal of a rule shall submit such request in writing to the Department of Social Services, ACT Unit, Lucas State Office Building, Des Moines, Iowa 50319.

770—4.2(17A) Form. Although the request need not follow any prescribed form, it shall clearly state:

4.2(1) The current rule, if one exists.

4.2(2) The proposed rule, amendment to such existing rule, or the action desired by the petitioner.

4.2(3) The pertinent facts and reasons in support of the petitioners position.

770—4.3(17A) Disposition. The ACT unit shall refer such request to the appropriate departmental unit for consideration within the statutory time limit imposed.

These rules are intended to implement section 17A.7 of the Code.

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[Filed without notice 5/8/78—published 5/31/78, effective 7/5/78]

holidays from 8:00 a.m. to 8:30 p.m. Friday, Saturday and Sunday. Visits shall be limited to four hours in length. A patient will only be available for a visit when not actively involved in a scheduled treatment program.

20.2(2) The attorney of record must present identification to prove identity and whom such attorney represents to institutional staff prior to gaining entrance. Bureau of criminal investigation agents, federal bureau of investigation agents, law enforcement officials and clergy must present proof of their identity and whom they represent to institutional staff prior to gaining entrance. The patient must express a desire to visit clergy before admission.

20.2(3) The name of each person authorized to visit must be on the patient's approved visiting list.

a. Relatives shall obtain approval from the social worker in the patient's treatment unit before being placed on the approved visiting list. Friends shall only be allowed to visit when the social worker determines the visit would be of therapeutic value.

b. Persons not on the approved visiting list may be granted a special visiting pass by the patient's social worker.

c. Any disruptive behavior on the part of a patient or visitor shall result in denial or termination of the visit.

d. Visitors may be requested to submit to a search. When the visitor is not willing to submit to a search upon request, the visit shall be denied.

e. Visitors shall not be permitted to visit when the apparent odor or effect of alcohol or narcotic drugs is detected.

f. Visits may be denied or terminated for reasons of health of the patient or visitor.

20.2(4) Visiting procedures may be temporarily modified in the following circumstances: Riot, disturbance, fire, labor dispute, space restrictions, natural disaster or other extreme emergency.

20.2(5) Failure to adhere to the rules shall result in loss of visiting privileges. Visiting privileges can be reinstated only at the discretion of the superintendent.

20.2(6)* The institution will not be liable for injury to guests or visitors nor responsible for loss of personal property.

20.2(7) All visitors may be required to be photographed for future identification purposes only.

20.2(8) Only members of the immediate family may purchase meal tickets and have meals with the patient. Friends may purchase meal tickets only when approved by the social worker.

770—20.3(218) Interviews and statements.

20.3(1) When patients are selected to be interviewed and photographed within the hospital, either singly or part of a group, identifiable interviews or pictures shall require the written consent of the patient involved as well as prior consent of the unit director.

20.3(2) The superintendent has the responsibility for all communications with mass media.

770—20.4(218) Mail and packages.

20.4(1) All correspondence shall be inspected for contraband. Mail shall be read when there is probable cause to believe or to suspect abuse of correspondence or a threat to the good sense of order and security of the hospital.

20.4(2) Patients are permitted to send sealed letters to a specified group of individuals. Mail to these persons shall not be opened or inspected. Mail from these persons may be opened only for inspection for contraband or to be assured the contents are from the return addressee. Confidential letters may be written to officers of federal, state, or municipal courts, any federal or state official, the commissioner of the department of social services, any official of the division of correctional institutions or the division of community services, or any member of the board of parole, the attorney of record, the office of the citizen's aide (letters received from this office shall not be opened by law), and the civil rights commission

*Objection, see filed rules published IAC Supp 11/3/75, 12/1/75

of Iowa.

20.4(3) Persons under the age of eighteen must have permission from their parents before correspondence is permitted with a patient. When the registrar has some question as to the age of person with whom a patient is corresponding, a questionnaire will be sent to determine age, and, if necessary, parental permission.

20.4(4) Guidelines for books, magazines, and publications which should not be sent and will not be given to patients include, but are not limited to:

a. Material which would cause a substantial interference with patient treatment.

b. Materials which would assist individuals in developing escape plans, making or using explosives, weapons, synthetic drugs and similar articles.

c. Material advocating or suggesting injury or damage to personnel, property or programs of the hospital.

d. Obscene and licentious materials.

20.4(5) The institution will not be responsible for lost or damaged goods sent into the institution.

770—20.5(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 hospital program. The superintendent 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—20.6(218) Tours. Tours shall be limited to adults and to small groups whose interests are relative to patient treatment as deemed appropriate by the superintendent.

These rules are intended to implement section 218.4 of the Code.

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[Filed 12/6/78, Notice 10/4/78—published 12/27/78, effective 1/31/79]

CHAPTER 21
RIVERVIEW RELEASE CENTER

770—21.1(218) Definitions.

21.1(1) *Contraband.* Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, obscene materials as defined in section 725.1, paragraph (1), of the Iowa Code, or material advocating disruption of or injury to residents, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

21.1(2) *Immediate family.* Whenever "immediate family" is used in these rules, it shall mean spouse, child, parent, brother, sister, natural grandparents or legal guardian.

770—21.2(218) Visiting.

21.2(1) Visiting hours shall be established by the superintendent, but minimum hours are from 10:00 a.m. to 4:00 p.m. on Saturdays and Sundays and from 4:00 p.m. to 9:00 p.m. Monday through Friday. For visiting purposes, the week begins on Sunday.

21.2(2) Only individuals approved to visit shall do so.

21.2(3) To obtain visiting approval, an individual must submit a completed questionnaire to the superintendent. After an investigation, visiting approval shall be granted at the discretion of the superintendent or designee.

a. Ex-felons must have prior approval from the superintendent to visit. Former inmates of correctional institutions must have demonstrated two years of successful behavior in the community prior to making application. Exceptions may be made for immediate family members.

b. Visitors fifteen years of age and younger may visit when accompanied by an approved adult who shall be responsible for the behavior of the child and have the child under physical observation at all times, or such child may visit immediate family members only, unaccompanied by an approved adult, when advance approval has been granted to the parents or legal guardian by the superintendent or designee. Children ages sixteen and seventeen may visit alone providing the parents or guardian write for advance permission for the child to visit alone.

g. All furlough privileges require staff approval and shall be earned by accumulation of merit points, in addition to meeting designated time limits.

h. Food furloughs shall not be allowed beyond Level I, if eating can be done during regular furlough time.

i. The first overnight furlough shall be to a "responsible person"; subsequent furloughs may be taken alone unless legal provisions require them to be to a "responsible person".

j. With sufficient accumulation of merit points, residents may bypass some levels through exemplary performance at the work release center.

k. When residents are not allowed to progress to a higher level they shall be informed in writing as to the reasons for such decision.

l. Disciplinary procedures shall be followed prior to backward movement in the level system with appropriate adjustment in merit points.

m. The house supervisor shall insure that each resident is evaluated weekly and considered for advancement to the next level, and when a resident has not accumulated sufficient points for advancement, the house supervisor shall inform the resident as to specifically what must be done to accumulate sufficient points to advance to the next level.

24.3(14) Residents who have been approved for work release may be granted a furlough, up to a maximum of seven calendar days, to the prospective work release residence for the purpose of locating employment.

a. In order to be eligible for job hunting furloughs, residents shall have at least forty dollars prior to leaving the institution and shall report to the residence with that amount.

b. No resident is to leave a correctional institution for community placement in state-issued clothing. When a resident has appropriate clothing in which to conduct a job-seeking interview, the fifty dollars allowed for clothes will be sent by check to the half-way house supervisor after the resident is actually signed to work release placement. When the resident does not have personal clothing in which to conduct a job-seeking interview, the institution is to provide up to fifty dollars clothing allowance with clothes purchased locally prior to the resident going on furlough. When the total amount of fifty dollars is not spent, the institution will send the difference by check to the half-way house supervisor with the authorized release money. Selection of clothing should be in keeping with the expected job placement.

c. Job hunting furloughs shall begin upon mutual agreement of the institutional staff and residence staff, and terminate by 10:00 p.m. on the final day of the furlough.

d. Job hunting furloughs may be extended an additional seven days by the granting authority and at the request of the residence staff.

e. Job hunting furloughs are only granted after a resident has served any disciplinary sentence imposed at the sending institution.

f. The staff member arranging the furlough shall insure that advance notification of the furlough is provided residence personnel and local parole staff.

This rule is intended to implement section 217.14 of the Code.

[Filed 5/26/78, Notice 3/22/78—published 6/14/78, effective 7/19/78]

CHAPTER 25
COMMUNITY-BASED CORRECTIONS

770—25.1(67GA,Ch154) Definitions.

25.1(1) *Accreditiation.* Accreditation shall mean certifying that a judicial district department of correctional services is in compliance with applicable state and federal laws and with applicable portions of the Iowa Administrative Code, which compliance is determined annually by the division of adult corrections reviewing the by-laws, policies, procedures and practices of the judicial district department of correctional services.

25.1(2) *Board of directors.* Board of directors shall mean the same as district board as defined in Acts of the Sixty-seventh General Assembly, chapter 154, section 1.

25.1(3) *Chief.* Chief shall mean the chief of the bureau of community correctional services, division of adult corrections, department of social services.

25.1(4) *Conditions of probation.* Conditions of probation shall mean the same as defined in section 907.6 of the Code.

25.1(5) *Deferred judgment, deferred sentence or suspended sentence.* Deferred judgment, deferred sentence or suspended sentence shall mean the same as defined in section 907.3 of the Code.

25.1(6) *District department.* District department shall mean the judicial district department of correctional services as defined in Acts of the Sixty-seventh General Assembly, chapter 154, section 2.

25.1(7) *District director.* District director shall mean the director of a judicial district department of correctional services.

25.1(8) *Executive committee.* Executive committee shall mean the same as defined in Acts of the Sixty-seventh General Assembly, chapter 154, section 1.

25.1(9) *Presentence investigations.* Presentence investigations shall mean the same as defined in sections 901.2 and 901.3 of the Code.

25.1(10) *Pretrial release.* Pretrial release shall mean the same as defined in section 811.2 of the Code.

25.1(11) *Probation.* Probation shall mean the same as defined in chapter 907 of the Code.

25.1(12) *Probation service.* Probation service shall mean the same as defined in section 907.2 of the Code.

25.1(13) *Residential services.* Residential services shall mean an alternate jail facility established pursuant to chapter 356A, Code of Iowa, or a community corrections residential treatment facility as identified in Acts of the Sixty-seventh General Assembly, chapter 154.

25.1(14) *Restitution.* Restitution shall mean the same as defined in chapter 907 of the Code.

25.1(15) *Site visit.* Site visit shall mean the accreditation review site visit conducted by the chief or designees for the purpose of evaluation of program for accreditation purposes.

25.1(16) *Supervision.* Supervision shall mean supervision during the probationary period as defined in section 907.8 of the Code.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, section 7.

770—25.2(67GA,Ch154) Accreditation.

25.2(1) The chief of the bureau of community correctional services, division of adult correctional services, department of social services, shall be the accreditating authority. The decisions of the chief shall be final.

25.2(2) The chief shall assign staff the responsibility to conduct an annual accreditation review process and any special reviews as the chief may deem necessary.

25.2(3) Annual site visits will begin no less than thirty days prior to the expiration of the period of accreditation. The annual site visit will be scheduled in advance with notice being given the chairperson of the district board and the district director no less than ten

working days prior to commencement of the site visit.

25.2(4) The annual site visit will include a systematic review of bylaws, policies, procedures and practices of the district department.

25.2(5) Special review site visits may be conducted without notice at the discretion of the chief. Such site visits will be commenced during normal hours of the operation of the district department of correctional services. Special review site visits may look at the overall community-based corrections program or may look at only a single component of the overall program, at the discretion of the chief.

25.2(6) The results of any site visit will be reported to the chief of the bureau of community corrections who shall review the material. When instances of noncompliance have been noted, the chief will communicate the deficiencies to the chairperson of the district board and the district director, indicating the specific deficiencies and a time frame for bringing the deficiencies into compliance.

25.2(7) At the end of the period of time designated for correction of deficiencies, the chief will award a certificate of accreditation or shall notify the district board and proceed as prescribed in Acts of the Sixty-seventh General Assembly, chapter 154.

25.2(8) The chief may issue accreditation of programs for a year or at the chief's discretion, for ninety, one hundred eighty, or two hundred seventy days.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, sections 7, 8, and 9.

770—25.3(67GA,Ch154) District board of directors.

25.3(1) The board of directors shall adopt bylaws as prescribed in Acts of the Sixty-seventh General Assembly, chapter 154.

25.3(2) The board of directors shall establish minimum qualifications for the position of the district director which shall include, but not be limited to, those set out in Acts of the Sixty-seventh General Assembly, chapter 154, section 6.

25.3(3) The board of directors shall select the district director of the overall community-based corrections program, who shall serve at the board's pleasure and the board shall set the director's salary consistent with Acts of the Sixty-seventh General Assembly, chapter 154.

25.3(4) The board of directors shall set policies and ensure procedures are developed governing the expenditure of funds which are in compliance with the requirements of the division of adult corrections and the Code of Iowa.

25.3(5) The board of directors shall set policies and ensure procedures are developed governing the personnel employed by the judicial district department of correctional services.

25.3(6) The board of directors shall establish policies and ensure procedures are developed governing formal communications between the board and the district director and between the board and the staff.

25.3(7) The board of directors shall establish policies and ensure procedures are developed governing the training of staff.

25.3(8) The board of directors shall approve a table of organization reflecting current staffing of the judicial district department of correctional services.

25.3(9) The board of directors shall annually approve the budget and action plan of the judicial district department of correctional services.

25.3(10) The board of directors shall ensure that the judicial district department of correctional services provides at a minimum the following services:

a. Pretrial services.

b. Presentence investigation services.

c. Probation services.

d. Alternative residential services.

e. Maximum utilization of existing community resources.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, sections 3, 4, and 7.

770—25.4(67GA,Ch154) District director.

25.4(1) The district director shall prepare and submit to the board of directors for approval, a current functional table of organization, procedures governing the personnel employed by the judicial district, and a system of fiscal accountability which assures compliance with the requirements of the division of adult corrections and the Code of Iowa.

25.4(2) The director shall prepare and submit to the board of directors for approval recommendations for budget requests and grant applications in accordance with the requirements of the various funding sources.

25.4(3) The director shall acquire current copies of the Code of Iowa, the Iowa Administrative Code, and applicable federal regulations and shall prepare and maintain current a loose-leaf department of correctional services manual which shall include, but not be limited to, the following:

a. The written bylaws of the board of directors of the department of correctional services.

b. All departmental policies and procedures.

c. Written standard operating procedures governing the staff in the provision of services to clients.

d. A table of organization reflecting all positions employed within the department of correctional services.

e. Job descriptions of all positions employed within the department of correctional services.

f. A current pay plan.

25.4(4) The director shall ensure that an individual employee loose-leaf manual is provided for, and maintained current by each employee and shall include information which provides necessary guidance in the performance of the duties outlined in his or her job description, personnel policies and procedures, and employee rights and responsibilities.

25.4(5) The director shall prepare or acquire and maintain current for each service unit a community resource utilization guide.

25.4(6) The director shall ensure that a case record is maintained on each active case released to or under the supervision of the judicial district department of correctional services, which shall include when applicable the following:

a. Identifying data.

b. Pretrial screening document.

c. Court orders.

d. Case plan.

e. Restitution plan.

f. Presentence investigation.

g. Probation agreement.

h. Residential contracts.

i. Chronological entries.

j. Violation reports.

k. Statistical data information.

l. Any other information judged pertinent by department staff.

25.4(7) The director shall ensure that written procedures exist concerning the security, maintainance, accessibility, and destruction of case records.

25.4(8) The director shall ensure that a case plan is developed for each client under supervision which includes an assessment of client needs, capabilities, community resources available to meet the client's needs and time schedules for the achievement of the plan.

25.4(9) The director shall ensure that the agency has a written client grievance policy including procedures and an appeals process.

25.4(10) The director shall ensure that there are written procedures governing the handling and dissemination of information and the confidentiality of client records which comply with applicable state and federal laws.

25.4(11) The director shall ensure that policies adopted by the board of directors are implemented with appropriate procedures and utilized by department staff.

25.4(12) The director shall maintain current documentation of inspection reports for all buildings under his or her purvue which shall include when applicable, fire, building and health reports.

25.4(13) The director shall prepare on a yearly basis an action plan which identifies how the judicial district department of correctional services will address the requirements of the Acts of the Sixty-seventh General Assembly, chapter 154.

25.4(14) The director shall ensure that all reports and data information required by the division of adult corrections are prepared and submitted on time.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, sections 1 and 6.

770—25.5(67GA,Ch154) Preconviction services.

25.5(1) The agency shall have written staff assignments which assure responsibility for providing pretrial services and information regarding the availability of pretrial services to the entire district, both release on own recognizance and release with services.

25.5(2) The agency shall have written policy and procedures assuring staff contact with all persons held in any jail or lockup in the judicial district for purposes of providing a pretrial interview within twenty-four hours of their arrest.

25.5(3) The agency shall have written criteria for screening pretrial release candidates which shall require consideration of those items required in section 811.2(2), Code, 1977 Supplement.

25.5(4) The agency shall have written policy and procedures reflecting the responsibility of the program to communicate with the court failures to comply with program expectations or absconders from supervision.

25.5(5) The agency shall have written policy and procedures governing supervision and classification of preconviction clients to assure that no more supervision or services are provided than are needed.

25.5(6) The agency shall have written policies and procedures to assure contact of a supervising agent or agency prior to recommending for release of a correctional client presently under supervision.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, section 7.

770—25.6(67GA,Ch154) Presentence investigation.

25.6(1) The agency shall have written policies and procedures which ensure compliance with the sections of the Code of Iowa governing presentence investigations.

25.6(2) Included as part of each presentence investigation report shall be a tentative case plan which includes an identification of client needs, capabilities and appropriate community resources to meet those needs.

25.6(3) The agency shall have written procedures to ensure the timely transmittal of the presentence report to appropriate court officials so that a copy will accompany the convicted offender to the institution where confinement is ordered.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, section 7.

770—25.7(67GA,Ch154) Probation.

25.7(1) The agency shall have written policy and procedures governing supervision and classification of probationers to assure that no more supervision or services are provided than are needed.

25.7(2) The agency shall have written policies and procedures which govern the recom-

mendation for revocation of probationary status (including supervisory review).

25.7(3) The agency shall have written policies and procedures which govern the recommendation for discharge of probation.

25.7(4) The agency shall seek termination of probation when it is clear that delivery of services to the probationer is no longer required to protect the community or enhance the probationer's overall performance.

25.7(5) The agency shall have written policies and procedures defining the use of physical force, and only to the degree necessary and in accordance with appropriate statutory authority.

25.7(6) The agency shall have written policies and procedures governing arrest practices; all officers making arrests shall be trained in these practices.

25.7(7) The agency shall have written policies and procedures governing the searching of probationers and their properties, and the seizure of evidence pertinent to an investigation of the violation of the terms and conditions of the probation agreement, in accordance with appropriate statutory authority.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, section 7.

770—25.8(67GA,Ch154) Residential.

25.8(1) All personnel shall furnish a written statement from a licensed physician or other qualified health practitioner at the commencement of their employment stating that they are free from any communicable disease.

25.8(2) The facility shall have written policies and procedures that make provisions for medical examination of any employee or resident suspected of having a communicable disease.

25.8(3) The facility shall have written policies and procedures governing the medical care of employees and residents in case of emergencies, sudden illnesses or accidents.

25.8(4) The agency shall have written policies and procedures governing the method of handling prescription drugs and over-the-counter drugs within the facility; no prescription or narcotic drugs are to be allowed in the facility without the authorzation of a licensed physician; medication taken by or administered to a resident shall be done according to Iowa law:

a. All drugs shall be maintained in a locked cabinet at the control center of the facility.

b. No prescription or narcotic drugs shall be permitted in the facility that are not in an individually labeled bottle.

c. If prescribed the label shall reflect the name of the resident for whom the medication is prescribed, the date the medication was prescribed, the pharmacy issuing the prescription, the name of the doctor prescribing the medication, and the dosage and frequency that it is to be taken.

d. Under no circumstances shall medication prescribed for one resident be given to anyone other than the resident for whom the prescription was issued.

e. All medication taken by a resident shall be taken in the immediate sight of and under the supervision of a staff member.

f. All doses of medications taken by a resident shall be recorded by the supervising staff member in an appropriate log provided for that specific purpose.

g. There shall be a specific procedure for the disposal of prescription medications no longer needed by the residents or which were the property of a resident discharged from the program.

25.8(5) The facility shall have on duty at least one staff member, awake and dressed at all times, who is readily available and responsive to resident needs, and knows the whereabouts of all residents in the facility.

25.8(6) The facility shall admit residents only on an order of the court, or in accordance with the provisions of a contract with the state of Iowa, in the case of postinstitutional clients.

25.8(7) At the time of intake, the facility staff shall discuss program goals, services available, rules governing conduct, program rules and regulations, disciplinary procedures available to staff, resident responsibilities and rights and communication privileges; this is documented by employee and resident signatures.

25.8(8) The facility shall have written policies and procedures governing how client's property is inventoried and recorded upon admission to the facility, and maintained current during their residency.

25.8(9) The facility shall have a written emergency evacuation plan which is conspicuously posted in the facility and is communicated to all employees and residents.

25.8(10) The facility shall have written policies and procedures assuring all clients will be provided three nutritional meals a day which shall meet or exceed the minimum daily nutritional requirements of the U. S. department of agriculture, if meals are to be provided by the facility.

25.8(11) When the facility provides food service, food service staff shall develop advanced planned menus and substantially follow the schedule.

25.8(12) When the facility provides food service, it ensures that all kitchen equipment and food handlers comply with applicable federal, state and local health and safety laws.

25.8(13) The facility shall have written policies and procedures governing the recommendations for revocation of the resident's status at the facility (including supervisory review).

25.8(14) The facility shall request discharge from the facility when it is clear that the delivery of services to the resident is no longer required to protect the community or enhance the resident's overall performance.

25.8(15) The facility shall have written policies and procedures defining the use of physical force, and only to the extent necessary and in accordance with appropriate statutory authority.

25.8(16) The facility shall have written policies and procedures governing the searching of residents, their properties and the seizure of evidence pertinent to an investigation of violations of the terms and conditions of residential rules, regulations and contracts in accordance with appropriate statutory authority.

25.8(17) The facility shall have written policies and procedures assuring the provision and maintenance of a safe environment for the residents, including compliance with fire, building and health regulations, and applicable safety standards.

This rule is intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 154, Section 7.

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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.

This rule is intended to implement section 239.2 of the Code.

770—41.4(239) Work incentive program registration. Each member of the eligible group 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 ten 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.

This rule is intended to implement section 239.5 of the Code.

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. Neither shall such person concurrently receive a grant from a public assistance program in another state.

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.

This rule is intended to implement section 239.2 of the Code.

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. Any resource not specifically exempted shall be counted toward resource limitations.

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. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. The net market value of any other real property shall be considered with personal property.

b. Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one's home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

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 a motor vehicle or motor vehicles.

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. Irrevocable funeral contracts or burial trusts.

j. One burial plot for each member of the eligible group.

k. An equity not to exceed $1000 in income-producing personal property, providing the property produces a net income over a six-month period.

l. Insurance settlements for payment of medical expenses.

m. Life estates.

n. 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 shall be considered in establishing property limitations. When a stepparent is in the home, the number of persons considered shall be as specified in subrule 41.10(2). Supplemental security income recipients shall not be counted in establishing property limitations.

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 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.

41.6(5) *Net market value defined.* Net market value is the gross price for which property or an item can currently be sold on the open market, less any legal debts, claims, or liens against such property or item.

41.6(6) *Availability.*

a. A resource must be available in order for it to be counted toward resource limitations. A resource is considered available under the following circumstances:

(1) The applicant/recipient owns the property in part or in full and has control over it; that is, it can be occupied, rented, leased, sold, or otherwise used or disposed of at the individual's discretion.

(2) The applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.

b. An applicant/recipient shall take all appropriate action to gain title and control of any resource the value of which would affect eligibility.

c. When property is owned by more than one person, unless otherwise established, it is assumed that all individuals hold equal shares in the property.

d. When the applicant/recipient cannot readily convert an available resource, the value of which would affect eligibility, to cash, the resource shall be considered exempt as long as all of the following conditions exist:

(1) The resource has been publicly advertised for sale and remains for sale, and

(2) The asking price for the resource is reasonable, and

(3) The applicant/recipient has not refused a reasonable offer on the resource.

41.6(7) *Damage judgments and insurance settlements.*

a. Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant/recipient the month following the month the payment was received. When the applicant/recipient signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

b. Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

This rule is intended to implement section 239.5 of the Code.

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. All income and expenses reasonably attributable to securing such income are subject to verification.

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. For applicants, the total month's gross income less allowable work expenses for the month in which the decision is made shall be considered in determining eligibility.

a. All income shall be converted to monthly income 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 or operating a family life home, 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, except a trust set up for medical expenses, which when added to other real and personal reserves exceeds resource limitations, 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.

j. Child support is considered as income in the amount actually received, even though a higher amount may have been ordered by the court. House or shelter payments shall be considered the same as cash received in the amount actually paid by the absent parent. When child support has been assigned any such cash child support paid to the recipient after assistance has been approved until the time the assignment is implemented shall be refunded to the department.

k. In determining profit from providing nursing care in the recipient's home, the following amounts shall be deducted from payments received.

(1) Shelter expense in excess of that set forth in the chart for determining income in kind in subrule 41.8(2).

(2) $88 to cover the cost of room and board.

(3) Ten percent of the total payment.

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. Compensatons 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.

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

a. When the parent is in the eligible group and the stepparent is outside the eligible group the stepparent shall be permitted to retain such stepparent's income sufficient to meet such stepparent's own needs and the needs of ineligible dependents, in accordance with aid to dependent children standards of need.

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

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

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

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

41.10(4) *Medical eligibility.*

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

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

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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.

This rule is intended to implement section 239.2(4) of the Code.

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.

This rule is intended to implement section 239.2(4) of the Code.

770—42.3(239) Referral. A bona fide referral is a referral which could lead to a bona fide offer of employment. Refusal to follow up on a bona fide employment or training referral shall be treated the same as a refusal of a bona fide offer of employment.

This rule is intended to implement section 239.2(4)"*c*".

78.2(2) In accordance with 45 CFR 205.30(b)(2)(iii), the basis of payment for legend drugs shall be the pharmacist's usual, customary, and reasonable charge, but payment shall not exceed the current cost of the drug as defined by the department of social services plus a professional fee of $2.55. This professional fee shall be applicable to services rendered on and after July 1, 1977. The determination of the unit cost component of the drug shall be based on the package size of drugs most frequently purchased by providers or the maximum allowable cost of each multiple source drug designated by the pharmaceutical reimbursement board of the department of health, education, and welfare and published in the Federal Register in accordance with 45 CFR 250.30(b)(2)(ii).

Payment for sickroom supplies and medical equipment shall not exceed the manufacturer's suggested minimum retail price or the usual community price for such items, whichever is lower.

No payment shall be made for sales tax.

78.2(3) The pharmacist shall dispense the lowest cost item in stock which meets the requirements of the practitioner as shown on the prescription.

78.2(4) Prescription records are required for all drugs as specified in sections 155.33, 155.34, and 204.308 of the Code. For the purposes of the medical assistance program, prescriptions for medical supplies are required and shall be subject to the same provisions. All prescriptions shall be available for audit by the department of social services.

This rule is intended to implement section 249A.4 of the Code.

770—78.3(249A) Hospitals. Payment will be approved for inpatient hospital care as medically necessary. There are no limitations on the amount of outpatient care for which payment will be made so long as such care is medically necessary. If the recipient is eligible for inpatient or outpatient hospital care through the Medicare program, payment will be made for deductibles and coinsurance applicable in that program. Payment will be approved only for multiple-bed accommodations unless the recipient's physician determines that he must be isolated for medical reasons in which case payment will be made for a private room.

78.3(1) Payment will be approved for the day of admission but not the day of discharge or death.

78.3(2) No payment will be approved for private duty nursing.

78.3(3) Certification of inpatient hospital care shall be the same as that in effect in part A of Medicare. The hospital admittance records are sufficient for the original certification.

78.3(4) Services provided for intestinal or gastric bypass surgery for treatment of obesity requires prior approval, which must be obtained by the attending physician before surgery is performed.

78.3(5) Payment will be approved for drugs provided inpatients subject to the same provisions specified in 78.1(2)"*a*"(2) and (3). Payment will be approved for drugs and supplies provided outpatients subject to the same provisions specified in 78.1(2). The basis of payment for drugs provided outpatients shall be the same as specified in 78.2(2).

78.3(6) Payment for nursing care provided by a hospital shall be made to those hospitals which have been certified by the state department of health as meeting the standards for a skilled nursing facility or an intermediate care facility. Payment as a skilled nursing facility shall be the same as specified in 78.12(249A). Payment as an intermediate care facility shall be the same as specified in 81.4(249A).

78.3(7) The hospital shall notify the local office of the department of social services when a recipient is admitted to the hospital using form XIX (Hosp-3), Inpatient Hospital Admission Notice.

78.3(8) Payment will not be made for services rendered by a hospital for tuberculosis or mental diseases when such hospital is an institution established and maintained primarily for care and treatment of persons with tuberculosis or mental diseases.

78.3(9) Payment will be made for sterilizations in accordance with 78.1(16).

78.3(10) Payment will be approved for a kidney transplant, but not for any services connected with any other organ transplant.

78.3(11) Payment will be approved for inpatient hospital care rendered a patient in connection with dental treatment only when the mental, physical, or emotional condition of the patient prevents the dentist from providing this necessary care in the office.

This rule is intended to implement section 249A.4 of the Code.

770—78.4(249A) Dentists.

78.4(1) This subrule delineates dental services for which payment will be made when rendered an eligible Title XIX recipient by an eligible provider. To ensure payment, services noted as requiring prior authorization shall be approved by the fiscal agent's dentist consultant prior to the provision of such services. In addition, some services not listed herein may be approved for payment on an exception basis after the provider has obtained authorization from the department's dentist consultant. Payment will be made for the following dental procedures:

a. Emergency services.

(1) Emergency services are those services required for alleviation of severe pain or immediate diagnosis and treatment of unforeseen dental conditions which if not immediately diagnosed and treated would lead to serious consequences of illness, disability or death. Such services are exempt from prior authorization; however, any service subject to prior authorization under normal conditions shall be supported by a dentist or physician statement describing the emergency and why emergency services were necessary.

(2) Emergency oral examination with treatment.

(3) Recement inlays, crowns or bridges.

(4) Fillings (sedative).

(5) House or nursing home visits. Only one visit fee shall be allowed when more than one patient is provided services at the same house or nursing home on the same day.

(6) Hospital calls up to a maximum of one visit per day.

(7) Therapeutic drug injection, by report, that is, the claim should include a brief narrative of history, findings, and treatment.

(8) Application of desensitizing medicaments, by report.

(9) Treatment of post surgery complications, by report.

b. Diagnostic services.

(1) An initial oral examination is payable once per patient per doctor.

(2) Periodic oral examination is payable once in a six-month period.

(3) A complete mouth radiograph survey consisting of a minimum of fourteen periapical films and bitewing films is a payable service once in a three-year period. A panographic-type radiograph with bitewings is considered the same as a complete mouth radiograph survey. This may be a payable benefit for children under fourteen years of age upon submission of a report (as defined in 78.4(1)"*a*"(7).

(4) Supplemental bitewing films are payable only once in a twelve-month period.

(5) Single periapical films are payable when necessary.

(6) Intraoral radiograph, occlusal.

(7) Extraoral radiograph.

(8) Posteroanterior and lateral skull and facial bone radiograph, survey film.

(9) Temporomandibular joint radiograph.

(10) Cephalometric film.

(11) Special consultation fee when necessary to consult another dentist or physician.

(12) Oral prophylaxis, including necessary scaling and polishing, is payable once in a six-month period. Topical application of flouride is payable once in a twelve-month period. (This does not include the use of flouride prophylaxis paste as flouride treatment).

(13) Diagnostic casts are a limited benefit and are payable only for orthodontic cases or when requested by the dentist-consultant.

c. Oral surgery.

(1) Payable surgical procedures (including local anesthesia and routine postoperative care) are:

Extractions, both surgical and nonsurgical.

Impaction (soft tissue impaction, upper or lower) that requires an incision of overlying soft tissue and the removal of the tooth.

Impaction (partial bony impaction, upper or lower) that requires incision of overlying soft tissue, elevation of a flap, removal of bone and removal of the tooth.

Impaction (complete bony impaction, upper or lower) that requires incision of overlying soft tissue, elevation of a flap, removal of bone and section of the tooth for removal.

Root recovery (surgical removal of residual root).

Oral antral fistula closure (or antral root recovery).

Surgical exposure of impacted or unerupted tooth for orthodontic reasons, including ligation when indicated.

Surgical exposure of impacted or unerupted tooth to aid eruption.

Biopsy of oral tissue, hard or soft.

Alveoplasty (surgical preparation of ridge for dentures).

Excision of reactive inflammatory lesions (scar tissue or localized congenital lesions), including excision pericoronal gingiva.

Excision of tumors.

Removal of cysts or tumors.

Destruction of lesions by physical methods: Electrosurgery, chemotherapy, cryotherapy.

Removal of exostosis, maxilla or mandible, which are symptomatic.

Partial osteotomy (guttering or saucerization), pathological.

Radical resection of mandible with bone graft pathological.

Incision and drainage.

Removal of foreign body, skin or subcutaneous areolar tissue.

Removal of reaction-producing foreign bodies, musculoskeletal system.

Sequestrectomy of osteomyelitis.

Maxillary sinusotomy for removal of tooth fragments or foreign body.

Treatment of fractures, simple or compound, by open or closed reduction.

Open and closed reduction of dislocation.
Repair of traumatic wounds.
Suture of recent small wounds, reconstruction requiring delicate handling of tissues, wide undermining for meticulous closure.
Skin grafts, necessary because of pathology or trauma.
Injection of trigeminal nerve branches for destruction.
Avulsion of trigeminal nerve branches.
Frenulectomy.
Sialolithotomy.
Excision of salivary gland.
Sialodochoplasty.
Closure of salivary fistula.
Emergency tracheotomy.
(2) Surgical procedures requiring prior approval include the following:
Apicoectomy, performed as separate surgical procedure.
Apicoectomy, performed in conjunction with endodontic procedure.
Apical curettage.
Root resection.
Excision of hyperplastic tissue.
(3) General anesthesia is a payable service when the severity of the disease indicates the need for such treatment, or when there is a concomitant disease or impairment which warrants its use.
d. *Periodontics.*
(1) Periodontics include those procedures necessary for the treatment of the tissues supporting the teeth. Periodontic services require prior approval and identification of case type. A recipient exhibiting Type I may have gingivitis, shallow pockets, with no bone loss. Type II, early periodontitis, includes moderate pockets, minor to moderate bone loss, satisfactory topography. Type III, moderate periodontitis, includes moderate to deep pockets, moderate to severe bone loss, unsatisfactory topography. Type IV services, i.e., advanced periodontics in which there are deep pockets, severe bone loss and advanced mobility patterns (usually cases involving missing teeth and reconstruction), are not payable by the program.
(2) Subgingival curettage is a payable benefit when provided in periodontal case type I, II or III and only when interproximal and subgingival calculus is evident in the radiographs, or when justified and documented that curettage, scaling or root planning is required in addition to routine prophylaxis.
(3) Surgical procedures are a payable benefit when approved treatment for periodontal case type II or III, only after a reasonable period of time following conservative treatment and only when the patient has exhibited motivation to maintain proper oral hygiene, or in cases which demonstrate gingival hyperplasia resulting from drug therapy.
(4) Dental disease prevention services are limited benefits, payable only as part of treatment for approved periodontal case types I, II and III. The fee for this service is included as a component of the unit fee and is not payable as a separate billing.
e. Endodontics.
(1) Prior authorization is required for these services except for emergency root canal therapy. Emergency root canal treatment may be done without prior authorization when any of the following conditions exist: Failure of palliative treatment to relieve the acute distress of the patient; a tooth which has been accidentially avulsed; and a fracture of the crown of a tooth.
(2) Root canal therapy may be payable for permanent teeth when extensive post-treatment restorative procedures are not necessary and when missing teeth do not jeopardize the integrity or function of the dental arches. Sufficient radiographs shall be submitted to verify the integrity of the arches.
(3) Normal post-treatment radiographs shall be submitted with the attending dentist's

statements for root canal treatment, the fee for which is included in the charge for endodontic treatment.

(4) Vital pulpotomies are clinical findings and do not require prior authorization. Cement bases, pulp capping and insulating liners are part of the restoration and may not be billed separately.

f. Restorative.

(1) Treatment of dental caries is payable in those areas which require immediate attention. Restoration of incipient or nonactive carious lesions are not payable. Carious activity may be considered incipient when there is no penetration of the dento-enamel junction as demonstrated in diagnostic radiographs.

(2) Amalgam alloy, silicate, acrylic or composite resin-type filling materials are payable benefits of the program.

(3) Composite resin or plastic type fillings on posterior teeth are payable benefits only as Class V restorations, i.e., facial (buccal) surfaces through the second bicuspids.

(4) All cast restorations require prior authorization.

(5) Stainless steel crowns may be payable when radiographs submitted clearly demonstrate the need for such a restoration or a statement from the dentist indicates a more conservative procedure would not be serviceable.

(6) All crowns, except stainless crowns on primary teeth or temporary stainless steel crowns on permanent teeth, must be prior authorized. Acrylic, porcelain or porcelain to metaltype crowns for adults are payable for anterior teeth. Cast metal crowns are payable for clasp teeth for an existing or allowable partial denture when coronal involvement is beyond treatment with amalgam alloy.

(7) Cast post and core, steel post and composite or amalgam in addition to a crown requires prior-authorization.

(8) Amalgam or acrylic build-ups are considered part of the preparation for the completed restoration except in special circumstances.

(9) Payment may be made for a surface only once in each episode of treatment, unless required for conservation of a tooth surface.

(10) Tooth preparation, temporary restorations, cement bases, pulp capping, impressions and local anesthesia are included in the restorative fee and may not be billed separately.

(11) When utilized as a final restoration with amalgam or composite resin, pin retention may be payable as a separate item.

(12) Proximal restorations in anterior teeth are considered single surface restorations.

(13) More than four surfaces on an amalgam restoration will be reimbursed as a "four-surface" amalgam.

(14) Topical application of flouride is payable only when preceded by an oral prophylaxis.

(15) Routine postoperative care is considered part of the fee for surgical procedures and may not be billed separately.

g. Prosthetics.

(1) Fixed and removable prosthetics are payable only once in a five-year period and only with prior authorization, except when necessary to prevent a significant disability. Payable removable prosthetics are:

Complete or partial dentures, including six months' post delivery care.

Complete or partial temporary dentures, including six-months' post delivery care.

Obturator for surgically excised palatal tissue or deficient velopharyngeal function of cleft palate patients.

(2) Fixed prosthetics for missing anterior teeth may be utilized on a limited basis.

(3) Relining upper or lower complete or partial dentures, in the laboratory or office, is a payable service once in a twelve-month period.

(4) Tissue conditoning is a payable service twice per appliance in a twelve-month period.

(5) Two repairs per appliance in a twelve-month period are covered by the program. More than two repairs in twelve months require justification and documentation.

h. Orthodontics.

(1) Orthodontic procedures are payable for the most handicapping malocclusions; orthodontic procedures require prior authorization. A request to perform such a procedure must be accompanied by an interpreted cephalometric radiograph and study models trimmed such that the models simulate centric occlusion of the patient. A written plan of treatment must accompany the diagnostic aids. Post treatment records must be furnished upon request of the dentist-consultant.

(2) Space management may be a payable benefit.

(3) Tooth guidance for a limited number of teeth or interceptive orthodontics is a payable service when the total cost of treatment does not exceed seventy-five dollars. Pretreatment records are not required.

i. Office visits. Payment may be made for postoperative care where need is shown to be beyond normal follow-up care or for post-operative care where the original service was performed by another dentist.

78.4(2) If a request for prior approval is denied by the fiscal agent's dentist-consultant, the request may be resubmitted for reconsideration with additional information justifying the request. If the request is, again, denied, the dentist may submit a request for reconsideration to the department's medical services section. In the event medical services section denies the request, a dentist may file an appeal in accordance with 770—chapter 7.

This rule is intended to implement section 249A.4 of the Code.

770—78.5(249A) Podiatrists. Payment will be approved only for certain podiatric services.

78.5(1) Payment will be approved for the following orthotic appliances and treatment of nail pathologies:

a. Durable plantar foot orthotic.

b. Plaster impressions for foot orthotic.

c. Molded digital orthotic.

d. Shoe padding when appliances are not practical.

e. Custom molded space shoes for rheumatoid arthritis, congenital defects and deformities, neurotropic, diabetic and ischemic intractable ulcerations and deformities due to injuries.

f. Rams horn (hypertrophic) nails.

g. Onychomycosis (mycotic) nails.

78.5(2) Payment will be made for the same scope of podiatric services available through part B of title XVIII (Medicare) except as listed below:

a. Treatment of flatfoot. The term *"flatfoot"* is defined as a condition in which one or more arches have flattened out.

b. Treatment of subluxations of the foot are defined as partial dislocations or displacements of joint surfaces, tendons, ligaments, or muscles of the foot. Surgical or nonsurgical treatments undertaken for the sole purpose of correcting a subluxated structure in the foot as an isolated entity are not covered.

Reasonable and necessary diagnosis of symptomatic conditions that result from or are associated with partial displacement of foot structures is a covered service. Surgical correction in the subluxated foot structure that is an integral part of the treatment of a foot injury or is undertaken to improve the function of the foot or to alleviate an induced or associated symptomatic condition is a covered service.

c. Routine foot care. Routine foot care includes the cutting or removal of corns or callouses, the trimming of nails and other hygienic and preventive maintenance care in the realm of self-care such as cleaning and soaking the feet, the use of skin creams to maintain skin tone of both ambulatory and bedfast patients and any services performed in the absence of localized illness, injury, or symptoms involving the foot.

d. Orthopedic shoes. Payment will not be made for orthopedic shoes or for any device to be worn in or attached to orthopedic shoes or other types of shoes when provided by the podiatrist. Payment will be made to the podiatrist for the examination including tests to establish the need for orthopedic shoes.

78.5(3) Prescriptions are required for drugs and supplies as specified in rule 78.1(2)"*c*".

This rule is intended to implement section 249A.4 of the Code.

770—78.6(249A) Optometrists. Payment will be approved only for certain optometric services and supplies.

78.6(1) Visual analysis which shall inlcude the following enumerated professional and technical optometric services:

a. Complete case history.

b. Visual acuity.

c. Examination of the eye for pathology, external and opthalmoscopy.

d. Analytical tests where possible to consist of corneal measurements, retinoscopy, subjective refraction, habitual phorias, induced lateral and vertical phorias, duction through controls, cross-cylinder and resultant phorias, amplitude of accommodation, and plus and minus blur-out.

e. Basic skills as required.

f. Determination of near vision or working distance, acuity and range of near vision.

g. Diagnosis from foregoing tests.

78.6(2) Prescription, analysis, advice and consultation which shall include the following professional services:

a. Analysis of the patient's previous prescription when applicable.

b. Analysis of present visual needs.

c. Determination of required treatment.

d. Programming and presentation of treatment.

e. Writing of the final prescription.

78.6(3) Lens service, verification and subsequent service. When lenses are necessary, the following enumerated professional and technical optometric services are to be provided:

a. Ordering of corrective lenses.

b. Verification of lenses after fabrication.

c. Adjust and align completed lens order.

d. Subsequent adjustment and servicing of lenses.

78.6(4) Multifocal lens service.

78.6(5) Fitting of contact lenses when required following cataract surgery.

78.6(6) Frame service. When a new frame is necessary, the following enumerated professional and technical optometric services are to be provided.

a. Selection and styling of frames.

b. Frame sizing and measurements.

c. Fitting and adjustment of frames.

d. Subsequent adjustment and servicing of frames.

78.6(7) Frame service when only lenses are provided.

78.6(8) Tonometry. Results of tests shall accompany the claim.

78.6(9) Visual fields. This shall be performed only when neurological or pathological symptoms are present. Results of tests shall accompany the claim.

78.6(10) Repairs. This charge is not applicable when a charge is made for any other service.

78.6(11) Opthalmic materials which are provided in connection with any of the foregoing professional optometric services shall provide adequate vision as determined by the optometrist and meet the following standards:

a. Corrected curve lenses, unless clinically contraindicated, manufactured by reputable American manufacturers. Note: Payment will not be made for photogray or tinted lenses.

b. Standard plastic, plastic metal combination, or metal frames manufactured by reputable American manufacturers.

c. Prescription standards according to the American optometric association standards and tolerance.

78.6(12) Actual laboratory cost of lenses. An invoice must accompany the claim.

78.6(13) Actual laboratory cost not to exceed nine dollars of frames. An invoice must accompany the claim.

78.6(14) Subnormal visual aids including hand magnifiers, loupes, telescopic spectacles or reverse Galilean telescope systems. An invoice must accompany the claim.

78.6(15) Case for glasses not to exceed fifty cents.

78.6(16) Prior approval shall be obtained from the department when a lens correction is the second within a twelve-month period, for procedure in subrule 78.6(8) when the patient is under age thirty-five, and in all cases for procedures in subrules 78.6(9) and 78.6(14). The optometrist shall furnish sufficient information to clearly establish that these procedures are necessary in terms of the visual condition of the patient. Requests for prior approval shall be made on form XIX (OPTO-2), Application for Prior Approval - Optometric Services.

This rule is intended to implement section 249A.4 of the Code.

770—78.7(249A) Opticians. Payment will be made only for certain services and supplies provided by opticians.

78.7(1) A dispensing fee only when the recipient is provided with a new pair of glasses.

78.7(2) Preparation and fitting of contact lenses when required following cataract surgery.

78.7(3) Preparation and fitting of artificial eye.

78.7(4) Repairs or replacement of frames, lenses or component parts. A charge will be approved for service in addition to the actual laboratory cost of materials as evidenced by an invoice attached to the claim, providing no charge is made for any other professional service. Payment will be approved for replacement of glasses when the original glasses have been lost or damaged beyond repair. When the glasses no longer adequately correct the recipient's vision, payment will be approved for lenses only.

The actual laboratory cost not to exceed nine dollars for frames. An invoice must accompany the claim.

78.7(5) Lenses, contact lenses, and artificial eyes. Note: Payment will not be made for photogray or tinted lenses.

78.7(6) Schroeder shield.

78.7(7) Ptosis crutch.

78.7(8) Subnormal visual aids including hand magnifiers, loupes, telescopic spectacles or reverse Galilean telescope system. This shall be the actual laboratory cost plus a charge for service. An invoice must accompany the claim.

78.7(9) Case for glasses not to exceed fifty cents.

This rule is intended to implement section 249A.4 of the Code.

770—78.8(249A) Chiropractors. Payment will be made for the same chiropractic procedures payable under Title XVIII of the Social Security Act (Medicare). Each chiropractor participating in the program is furnished a list of these chiropractic services for which payment will be approved. The chiropractor shall have on file in the office an X-ray documenting the existence of a subluxation of the spine for which treatment is being given and a charge made to the program in all cases except for pregnant women and children under age five. The documenting X-ray shall be no more than one year old at the time service is provided.

This rule is intended to implement section 249A.4 of the Code.

770—78.9(249A) Home health agencies. Payment will be approved for all medically necessary services and supplies as prescribed by a physician in a plan of home health care provided by a certified home health agency.

This rule is intended to implement section 249A.4 of the Code.

770—78.10(249A) Medical equipment and appliances, prosthetic devices and sickroom supply dealers. Payment will be made for all medical equipment and appliances, prosthetic devices and sickroom supplies required by the recipient because of his condition. The written prescription of the physician is necessary in all cases. If the item required by the recipient is costly and will be needed only a brief period consideration shall be given to rental rather than purchase of the item.

78.10(1) Payment will be approved for durable medical equipment, when the equipment can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of an illness or injury, and is appropriate for use in the home. The equipment must also be necessary and reasonable for the treatment of an illness or injury or to improve the functioning of a malformed body member.

78.10(2) Payment will be approved for prosthetic devices which replace all or part of an internal body organ of replace all or part of the function of a permanently inoperative or malfunctioning internal body organ. Leg, arm, back and neck braces, and artificial legs, arms and eyes are also covered.

78.10(3) Payment will be approved for sickroom supplies when prescribed by the physician for a specific rather than incidental use.

78.10(4) Payment will be approved for repairs to equipment or prosthetic devices which a recipient is purchasing of already owns.

78.10(5) Payment will be approved for replacement of equipment which the recipient owns or is purchasing in cases of loss or irreparable damage or wear and when required because of a change in the recipient's condition.

78.10(6) Payment will be approved for oxygen subject to the same conditions as in the Medicare program.

78.10(7) When an item is rented, at the point one-half of the total rent paid equals the purchase price, the recipient will be considered to own the item and no further rental payments shall be made. This policy is also applicable to the payment of co-insurance for Medicare beneficiaries.

and primary therapist the diagnosis, treatment needs, and treatment plan shall be delineated. The result of the staff shall be recorded by the primary therapist and countersigned by the psychiatrist and placed in the patient's permanent record.

78.16(2) Not later than four months after the initial staffing and each four months thereafter there shall be a documented review of the case by the psychiatrist and primary therapist to evaluate and revise or change the treatment plan as necessary.

78.16(3) The staffing of patients at four weeks and the subsequent periodic four month reviews are not payable as separate services under the treatment program. These reviews shall be documented in the record and are subject to audit by the department of social services.

78.16(4) Clinical records of medical assistance patients shall be available to the carrier on request. All such records shall be held confidential.

78.16(5) At the time of application for participation in the program the center will be provided with a form on which to list its professional staff. The center shall report acquisitions or losses of professional staff to the carrier within ten days.

This rule is intended to implement section 249A.4 of the Code.

770—78.17(249A) Physical therapists. Payment will be approved for the same services payable under Title XVIII of the Social Security Act (Medicare).

This rule is intended to implement section 249A.4 of the Code.

770—78.18(249A) Screening centers. Payment will be approved for health screening as defined in subrule 84.1(1) for individuals under twenty-one years of age who are eligible for aid to dependent children.

78.18(1) Payment will be made for immunizations provided by the screening center on the same date as the screening examination.

78.18(2) Payment will be approved for necessary laboratory service related to an element of screening when performed by the screening center and billed as a separate item.

78.18(3) Payment will be approved for only one screening examination in each twelve-month period.

78.18(4) When it is established that an individual is in need of health screening services, the local office of the department of social services will send the screening center a copy of form MA-2119-0, Referral for Screening. The original copy will be presented to the screening center at the time of the appointment.

78.18(5) When an individual is screened, a medical history shall be completed by a staff member of the screening center. It may be recorded on form XIX (SCR-1), Brief Medical History, or the screening center may use its own form. The medical history shall become part of the individual's medical record.

This rule is intended to implement section 249A.4 of the Code.

770—78.19(249A) Rehabilitation agencies. Payment will be made for the same services payable under the Medicare program (Title XVIII of the Social Security Act).

This rule is intended to implement section 249A.4 of the Code.

770—78.20(249A) Independent laboratories. Payment will be made for the same services payable under the Medicare program (Title XVIII of the Social Security Act).

This rule is intended to implement section 249A.4 of the Code.

770—78.21(249A) Rural health clinics. Payment will be made to rural health clinics for the same services payable under the Medicare program (Title XVIII of the Social Security Act).

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the director of the department may enter into written agreements with such approved programs. If a county has received the required forms, and thirty days have elapsed without the county having taken any action, the department shall consider the forms approved.

805—2.2(67GA,HF2440) Appeals. Any county which disagrees with the amount of a facility's budget approved by the department may appeal to the commission.

2.2(1) *Contested case hearing.* Counties who wish to contest the line item budget as approved by the commission shall be afforded an opportunity for a hearing before the commission.

2.2(2) *Notice of contest.* The notice of contest to the actions of the commission shall be filed in writing at the Iowa Department of Substance Abuse, Suite 230, Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50319. No particular form shall be required; however, the notice shall state the decision which is being contested and the basis for the contest. This notice shall be received by the department within thirty days from the date of receipt of the County Certification of Resource Commitment.

2.2(3) *Contested case hearing notice.* The chairperson of the commission shall place the hearing on the next scheduled commission meeting which is at least fifteen days from the date of receipt of the notice of contest by the department.

2.2(4) *Contested case review.* The director of the department shall develop a fact finding report and recommendation and forward same to the commission.

2.2(5) *Conduct of hearing.* Opportunity shall be afforded all parties to respond and present argument on the issue involved. The hearing shall be informal and all relevant evidence admissible. The decision, opinion or report by the commission shall be recorded in the minutes and communicated to the concerned parties within fifteen days by certified mail.

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CHAPTER 3
LICENSURE STANDARDS FOR SUBSTANCE ABUSE TREATMENT PROGRAMS

805—3.1(67GA,ch74) Definitions. Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

3.1(1) *"Admissions"* means the point in a substance abuser's relationship with the program at which the intake process has been completed and the individual is entitled to receive treatment services.

3.1(2) *"Affiliation agreement"* means a written agreement between the governing authority of the program and another organization under the terms of which specified services, space and/or personnel are provided to one organization by the other, but without exchange of monies.

3.1(3) *"Aftercare"* means the component of the treatment program which provides continued contact with the client following the provision of services in a primary care modality, designed to support and to increase the gains made to date in the treatment process.

3.1(4) *"Applicant"* means any substance abuse treatment program which has applied for a license or renewal thereof.

3.1(5) *"Application"* means the process through which a substance abuse treatment program applies for a license or renewal as outlined in the application procedures.

3.1(6) *"Assessment"* means the process of evaluating an individual's strengths, weaknesses, problems, and needs so that a treatment plan can be developed.

3.1(7) *"Chemical substance"* means alcohol, wine, spirits and beer as defined in chapter 123 of the Code and drugs as defined in section 203A.2, subsection 3 of the Code, which when used improperly could result in chemical dependency.

3.1(8) *"Client"* means an individual who has a substance abuse problem, for whom intake procedures have been completed, and who is admitted to the program.

3.1(9) *"Treatment supervisor"* means an individual who, by virtue of education, training or experience, is capable of assessing the psychosocial history of a substance abuser to determine the treatment plan most appropriate for the client. This person shall be designated by the applicant.

3.1(10) *"Commission"* means the Iowa commission on substance abuse within the department.

3.1(11) *"Contract"* means a formal legal document adopted by the governing authority of the program and any other organization, agency, or individual that specifies services, personnel and/or space to be provided to the program as well as the monies to be expended in the exchange.

3.1(12) *"Counselor"* means an individual who, by virtue of education, training or experience, provides treatment, which includes advice, opinion, or instruction to an individual or in a group setting to allow an opportunity for a person to explore his or her problems related directly or indirectly to substance abuse or dependence.

3.1(13) *"Detoxification"* means the withdrawal of a person from a physiologically addicting substance.

3.1(14) *"Director"* means the director of the Iowa department of substance abuse.

3.1(15) *"Emergency admission"* means an admission that does not meet the intake process.

3.1(16) *"Facility"* means a hospital, institution, detoxification center, or installation providing care, maintenance and treatment for substance abusers and licensed by the department under section 125.13.

3.1(17) *"Follow-up"* means the process for determining the status of an individual who has been referred to an outside resource for services or who has been discharged from the program.

3.1(18) *"Intake"* means the process of collecting and assessing information to determine the appropriateness of admitting or retaining an individual into a substance abuse treatment program.

3.1(19) *"Licensee"* means any program licensed by the department.

3.1(20) *"Licensure"* means the issuance of a license by the department upon due process by the substance abuse commission which validates the licensee's compliance with substance abuse program standards and authorizes the licensee to operate a substance abuse treatment program in the state of Iowa.

3.1(21) *"Maintenance"* means the prolonged scheduled administration of methadone or other controlled substances intended as a substitute or antagonist to abused substances in accordance with federal and state regulations.

3.1(22) *"May"* — term in the interpretation of a standard to reflect an acceptable method that is recognized but not necessarily preferred.

3.1(23) *"Outpatient program"* means a non live-in program offering treatment or rehabilitation services to substance abusers on a scheduled or nonscheduled basis.

3.1(24) *"Primary care modality"* means all components of the treatment program excluding aftercare.

3.1(25) *"Program"* means any individual, partnership, corporation, association, governmental subdivision or public or private organization.

3.1(26) *"Protected classes"* means classes of people who have required special legislation to ensure equality.

3.1(27) *"Referral agreement"* means a written document defining a relationship between the program and an outside resource for the provision of client services not available within the substance abuse treatment program.

3.1(28) *"Rehabilitation"* means the restoration of a client to the fullest physical, mental, social, vocational, and economic usefulness of which he or she is capable. Rehabilitation may include, but is not limited to, medical treatment, psychological therapy, occupational training, job counseling, social and domestic rehabilitation and education.

3.1(29) *"Residential/intermediate care program"* means a twenty-four-hour live-in facility offering treatment and rehabilitation services to facilitate the substance abuser's ability to live and work in the community.

3.1(30) *"Rule"* means each statement of general applicability that implements, interprets, or prescribes department law or policy, or that describes the organization

procedure or practice requirements of the department. The term includes the amendment or repeal of existing rules as specified in the Code of Iowa.

3.1(31) *"Shall"* — term used to indicate a mandatory statement, the only acceptable method under the present standards.

3.1(32) *"Should"* — term used in the interpretation of a standard to reflect the commonly accepted method, yet allowing for the use of effective alternatives.

3.1(33) *"Staff"* means any individual who provides services to the program on a regular basis as a paid employee or as a volunteer.

3.1(34) *"Standards"* means specifications representing the minimal characteristics of a substance abuse treatment program which are acceptable for the issuance of a license.

3.1(35) *"Substance abuser"* means a person who habitually lacks self control as to the use of chemical substances or uses chemical substances to the extent that his or her health is substantially impaired or endangered or that his or her social or economic function is substantially disrupted.

3.1(36) *"Treatment"* means the broad range of planned and continuing, inpatient, outpatient, residential/intermediate care services, including diagnostic evaluation, counseling, medical, psychiatric, psychological, and social service care, which may be extended to substance abusers and which is geared towards influencing the behavior of such individuals to achieve a state of rehabilitation.

3.1(37) *"Treatment plan"* means a written plan which specifies the goals, activities and services determined through process of assessment appropriate to meet the objective needs of the client.

805—3.2(67GA,ch74) Licensing. A single license will be issued to each qualifying substance abuse treatment program. The license will delineate one or more categories of services the program is authorized to provide. Although a program may have more than one facility, only one license will be issued to the program. When an aspect of a program is unable to meet the licensing standards, a provisional license may be issued to that program for a specified period citing all areas of noncompliance that have not been reconciled to the commission. The department will have the option to revoke the provisional license or issue a standard renewal license.

3.2(1) *Categories.* The categories of services for which licenses will be issued are:

a. Residential/intermediate care

b. Nonresidential and outpatient

c. Chemical substitute, antagonist and detoxification.

805—3.3(67GA,ch74) Type of licenses. Two types of licenses may be issued by the department. A standard renewal license may be issued for one year when the commission has determined the applicant is in compliance with these rules. Provisional licenses may be issued for ninety, one hundred eighty, or two hundred seventy days (at the discretion of the commission) to an applicant who is determined by the commission to be temporarily unable to comply with these rules. A provisional license shall not be renewed or extended.

All standard licenses shall expire one calendar year from the date of issue, and a renewal of such license shall be issued only on application, as required herein. The renewal of a license shall be contingent upon demonstration of substantial continued compliance with licensure standards. Failure to apply for and receive renewal of such license prior to the expiration date shall result in immediate termination of license and require reapplication.

805—3.4(67GA,ch74) Nonassignability. When a program is discontinued, its current license is void immediately and shall be returned to the department. A discontinued program is one which has terminated its services for which it has been licensed. A license is not transferable. A license issued by the department for the operation of a substance abuse program applies both to the applicant program and the premises upon which the program

is to be operated. Any person or other legal entity acquiring a licensed facility for the purpose of operating a substance abuse program shall make an application as provided herein for a new license. Similarly, any person or legal entity having acquired a license and desiring to fundamentally alter the treatment philosophy or transfer to different premises must notify the commission thirty days prior to said action in order for the department to review the site change and to determine appropriate action.

A licensee shall, if possible, notify the department of impending closure of the licensed program at least thirty days prior to such closure. The licensee shall be responsible for the removal and placement of patients or clients and for the preservation and delivery of all records to the department upon request by the commission. Upon closing all facilities and terminating all service delivery activities, the license shall be immediately returned to the department.

805—3.5(67GA,ch74) Application procedures. Applying for a license constitutes the first phase of the licensure process and the applicant may continue to operate until final determination of its licensure status is made by the commission. The licensing and accreditation manager will mail an application form to all applicants for licensure.

3.5(1) *Application information.* An applicant for licensure shall submit at least the following information on forms provided by and available at the Iowa Department of Substance Abuse, 418 Sixth Avenue, Des Moines, Iowa 50319, with a return receipt requested.

a. The name and address of the applicant substance abuse treatment program.

b. The name and address of the executive director of such substance abuse treatment program.

c. An outline of the staff table of organization, names and qualifications.

d. The names and addresses of members of the board of directors, sponsors, or advisory boards of such substance abuse treatment program and existing articles of incorporation and bylaws.

e. The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the substance abuse treatment program has a direct referral agreement or is otherwise affiliated.

f. A description of the nature of treatment services provided by such substance abuse treatment program setting forth program goals and objectives and a description of the treatment methodology.

g. Submission of materials substantiating compliance with all related federal, state and local acts, ordinances, rules and amendments thereto, i.e., state fire marshal's rules, board of health and building code compliance.

h. The source of funds used to finance such substance abuse program, and the annual budget of the organization.

3.5(2) *Renewal.* An application for renewal shall be made on forms provided by the department at least ninety calendar days before expiration of the current license.

805—3.6(67GA,ch74) Application review. An applicant for licensure shall submit a completed application to the department within twenty days from the date the forms are received. The licensing and accreditation manager shall review the application for completion and request any additional material as needed. A licensure site visit shall be scheduled in written format with a copy mailed to the chairman of the board, the commission chairperson, and the district co-ordinators. Applicants failing to return the forms shall be notified by registered mail that all programs must be licensed in order to continue operating.

805—3.7(67GA,ch74) Inspection of licensees. The department shall at least annually inspect the facilities and review the procedures utilized by each licensed program. The examination and review may include case record audits and interviews with staff and

clients, consistent with the confidentiality safeguards of state and feder

3.7(1) *Prelicensure site visits.* The prelicensure site visit is the se licensure process. All treatment programs applying for the first time for a a substance abuse treatment program in the state of Iowa will be visited IDSA staff member for determination of the program's compliance with a regulations relating thereto.

a. A prelicensure site inspection report will, subsequently, be sul prospective program director and may be sent to the commission within fift days after completion of the site visit. Said report shall include, but not ne limited to the program's compliance and/or noncompliance to the laws, r regulations governing the operation of substance abuse treatment programs.

b. The treatment program may request technical assistance from IDSA t assistance manager so as to bring into conformity areas reported to be in noncompliao said regulations. Such technical assistance shall be provided within thirty days o applicant's request and prior to the final inspection. The licensure and accre manager may also request that technical assistance be provided to the prog deficiencies are noted during a site visit.

3.7(2) *Onsite visit for licensure.* The onsite visit for licensure constitutes the thi of the licensure process. A licensing site inspection shall be scheduled following su that technical assistance requested by the program from the department has been pr consistent with the deficiencies articulated in the prelicensure site inspection report and the program notifies the department that corrective measures have been completed.

a. The onsite visit team will consist of the district co-ordinator, designated members of the IDSA staff, the licensing and accreditation manager (team leader) and selected consultants as approved by the director.

b. The team will inspect the program that has applied for a license in order to verify information contained in the application, assure compliance with all laws, rules and regulations with special emphasis on areas of noncompliance reported during the prelicensure site visit.

c. The inspection team shall send a written report, return receipt requested, of their findings to the applicant within fifteen working days after the completion of the inspection.

805—3.8(67GA,ch74) Licenses — renewal. The commission shall meet to consider all cases involving issuance, denial, suspension, or revocation of a license. Upon approval of an application for licensing by the commission, a license shall be issued by the department. Licenses shall expire one year from the date of issuance and shall be renewed upon timely application made in the same manner as for original issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal.

3.8(1) *Commission hearing preparation.* The licensure and accreditation manager will prepare all documents with a final recommendation for licensing determination to be presented at a commission meeting within ninety days from the site visit. The chairperson of the commission shall send public notice of the date, time, place and name of applicants to be reviewed and processed.

a. The licensing and accreditation manager shall send notice to the program by certified mail within thirty days prior to the commission meeting notifying the program director of the time, place, and date the commission will review and act upon the application for the program.

b. The licensure and accreditation manager shall mail to all commission members the following information on each application to be processed at the next commission meeting: (1) Reports of the onsite program licensure inspections and (2) a final recommendation for licensing.

3.8(2) *Commission meeting format.*

a. The chairperson or his/her designee shall call the meeting to order at the designated time.

e presiding officer will read each application and protocols.
pportunity shall be given all concerned parties to respond, present evidence, and nts on each application.
fter all concerned parties are heard, the commission will make a final decision as to r the applicant should be approved or denied a license to operate a substance abuse ent program.

3.9(67GA,ch74) **Confidentiality.** All client records shall be kept confidential and be handled in compliance with the federal confidentiality regulations (Department of h, Education and Welfare, Public Health Services — Confidentiality of Alcohol and Abuse Patient Records, 42 CFR, part 2), and with other applicable federal and state s. When a conflict occurs with state and federal confidentiality laws, the federally ded program will comply with federal confidentiality laws while state funded programs minimally comply with state statutes and rules.

3.9(1) *Disclosure for benefits.* If the patient gives his/her specific written consent, the of the record may be disclosed to legal counsel upon written endorsement by the y to nongovernmental personnel for the purpose of collecting health insurance claims r benefits or to a present or potential employer when such employment is ned upon his/her status or progress in a treatment program.

2) *Disclosure for evaluation.* Disclosure of information for research, management, or evaluation purposes must be specifically authorized by the director or his/her designee.

3.9(3) *Consent storage.* The client's written release of information shall be kept in the client's record.

3.9(4) *Confidentiality orientation.* A program shall insure that all staff and clients, as a part of their intial orientation are made aware of these requirements. Any decision to disclose client information under any provision of chapter 125 of the Code as amended, or other applicable federal or state rule which permits such disclosure, shall be made only by the program director or his/her designee.

805—3.10(67GA,ch74) Provisional licenses. Programs issued a provisional license by the commission will submit a corrective action plan to the director no later than thirty days following the licensure hearing. The corrective action plan shall include, but not be limited to:

1. Specific problem areas.
2. A delineation of corrective measures to be taken by the program.
3. A delineation of target dates for completion of corrective measures for each problem area.

805—3.11(67GA,ch74) Denial of application. When the commission determines that an applicant's request for a license should be denied, the director shall notify the applicant, by certified mail, (return receipt requested) that the commission intends to deny licensure. The notice of intention to deny licensure shall contain the reasons for the denial and a statement that the denial of the application shall become final. Within the following thirty days, the applicant may submit to the department written notification of correction of each deficiency, or written objections to each reason for denial, stating why it should not remain. If objections to the denial of license are submitted to the department, a full opportunity for settling of all issues shall be provided. If a settlement of the issues in contention cannot be made or if objections to the notice of denial are not submitted, or if for any other reason an application is denied, the applicant may request a hearing before the commission within thirty days after the denial becomes final. This request shall be granted and the applicant notified of the date, time and place of the hearing.

805—3.12(67GA,ch74) Hearing before commission. If a licensee under this chapter makes a written request for a hearing within thirty days of suspension, revocation or refusal to renew a license, a hearing before the commission shall be arranged within sixty days of

receipt of the request. If the role of a commission member is inconsistent with the member's job role or function, or if any commission member feels unable for any reason to disinterestedly weigh the merits of the case before the commission, the member shall not participate in the hearing and shall not be entitled to vote on the case. The commission shall issue a written statement of its findings within thirty days after conclusion of the hearing upholding or reversing the proposed suspension, revocation or refusal to renew a license. No action involving suspension, revocation or refusal to renew a license shall be taken by the commission unless a quorum of five of the nine members are present at the meeting. A copy of the decision shall be promptly transmitted to the affected licensee who may, if aggrieved by the decision, seek judicial review of the actions of the commission in accordance with the terms of the Iowa administrative procedures Act.

805—3.13(67GA,ch74) Reissuance or reinstatement. After suspension, revocation or refusal to renew a license, the affected licensee shall not have the license reissued or reinstated within one year of the effective date of the suspension, revocation or expiration upon refusal to renew, unless by order of the commission. After that time, proof of compliance with the licensure standards must be presented to the commission prior to reinstatement or reissuance of a license.

805—3.14(67GA,ch74) Suspension and revocation of licenses. The commission may suspend or revoke a license for any of the following reasons:

1. Violation by the program, its director or staff, of any rule promulgated by the department pertaining to substance abuse treatment programs.
2. Permitting, aiding or abetting the commitment of an unlawful act within the facilities maintained by the program, or permitting, aiding or abetting the commitment of an unlawful act involving chemical substance within the program.
3. Conduct or practices found by the department to be detrimental to the general health or welfare of a participant in the program or the general community.
4. Deviation by the program from the plan of operation originally licensed which, in the judgment of the department, adversely affects the character, quality or scope of services intended to be provided to substance abusers within the scope of the program.

3.14(1) *Notice from commission.* When the commission determines that a licensed program may have committed an act, or may have engaged in conduct or practices, justifying suspension or revocation of license, the commission shall notify the licensee by certified mail, (return receipt requested), of the commission's intent to suspend or revoke the license. After review of the act, conduct or practice by the commission, a final disposition regarding the suspension or termination of the license will be made and notification sent to the program.

3.14(2) *Hearing.* If the suspension or revocation is protested within thirty days after receipt of the notice of intended action, the commission shall conduct a hearing determining the issue of suspension or revocation of the license. Notice of the hearing shall be mailed at least ten days before the date of the hearing. The notice shall state the matters of law and fact to be determined at the hearing, and the date, time and place of the hearing.

3.14(3) *Summary suspension.* If the commission finds that the health, safety or welfare of the public are endangered by continued operation of a substance abuse treatment program, summary suspension of a license may be ordered pending proceedings for revocation or other actions. These proceedings shall be promptly instituted and determined.

805—3.15(67GA,ch74) Contested case hearing. Programs who wish to contest the suspension or revocation of their license shall be afforded an opportunity for a hearing before the commission.

3.15(1) *Notice of contest.* The notice of contest to the actions of the commission shall be filed in writing at the Iowa Department of Substance Abuse, Suite 230, Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50319. No particular form shall be required; however, the notice shall state the decision which is being contested and the basis for the contest. This notice shall be received by the department within thirty days after the decision was made.

3.15(2) *Contested case hearings — notice of hearings.* The chairperson of the commission shall send a written notice of the hearing to all interested parties by certified mail return receipt requested or by personal service as in civil actions, at least ten days prior to the date of the hearing unless a shorter period of time is agreed upon by all parties. Delivery of this notice shall constitute commencement of the contested case proceeding. The notice shall include the time, place and nature of the hearing, plus a statement of the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of the statutes and rules involved and a short and plain statement of the

matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application a more definite and detailed statement shall be furnished.

3.15(3) *Failure to appear.* If a party fails to appear in a contested case hearing proceedings after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party. The presiding officer may, in such a case, enter a default judgment against the party failing to appear.

3.15(4) *Conduct of hearing.* Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

a. The hearing shall be informal and all relevant evidence admissible. Effect will be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. When the hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

b. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

c. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense. Witnesses present at the hearing shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

d. The record in a contested case shall include:

1. All pleadings, motions and intermediate rulings.
2. All evidence received or considered and all other submissions.
3. A statement of all matters officially noticed.
4. All questions and offers of proof, objections and rulings therein.
5. All proposed findings and exceptions.
6. Any decision, opinion or report by the officer presiding at the hearing.

e. Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the agency for at least five years from the date of decision.

f. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

3.15(5) *Presiding officer.* The chairperson, a designated member of the commission or a designated member of the Iowa department of substance abuse staff will preside at the hearing, or at the direction of the commission, an administrative hearing officer available pursuant to chapter 17A of the Code, will preside in lieu of the chairperson or his/her designee.

3.15(6) *Ex parte communications.* The notice required pursuant to section 17A.4 of the Code, concerning ex parte communications in contested cases, shall include the name of the hearing officer, the name of the party to whom the communication will occur, the nature of the communication, the place of the communication and the time of the communication. The notice shall be in writing and shall be delivered either by personal service as in civil actions or by certified mail return receipt requested. The time of the communication must be at least thirty days subsequent to the service of the notice.

a. Hearing officer. Any individual who is assigned to hear a contested case who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any party or the representative of any party to that contested case without giving

the required notice to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

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

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

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

3.15(7) *Subpoenas — discovery.* After the commencement of a contested case the presiding officer shall have the authority to administer oaths and to insure subpoenas or subpoenas duces tecum in such cases. Discovery procedures applicable to civil action shall be available to all parties in contested cases. Evidence obtained in such discovery may be used in the hearing before the presiding officer if that evidence is otherwise admissible in the hearing.

If the commission relies on a witness in a contested case, whether or not a commission member, who has made prior statements or reports with respect to the subject matter of the witness' testimony, the director shall, on request, make such statements or reports available to parties for use on cross-examination, unless those statements or reports are otherwise expressly exempt from disclosure by constitution or statute. Identifiable department records that are relevant to disputed material facts involved in a contested case hearing shall, upon request, promptly be made available to a party unless the requested records are expressly exempt from disclosure from constitution or statute.

3.15(8) *Continuance.* For good cause, the chairperson may continue hearings beyond the time originally scheduled or recessed. Requests for continuance shall be made to the chairperson in writing at least three days prior to the scheduled hearing date.

3.15(9) *Decision.* Findings of fact shall be based solely on the evidence in the record and upon matters officially noticed in the record.

a. The decision of the presiding officer shall be the final decision unless there is an appeal to the commission.

b. A proposed or final decision or order in a contested case hearing shall be in writing or stated in the record. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. Each conclusion of law shall be supported by cited authority or by a reasoned

opinion. Parties will be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order.

805—3.16(67GA,ch74) Noncompliance. On any program refusing to cease operation after the aforementioned procedures have been followed the commission will hold a special hearing; again, a quorum of five must be present. At said meeting, the commission may refer the matter to the attorney general's office for appropriate action. At the discretion of the attorney general, action may be initiated. Any program who refused to allow an onsite inspection as specified in chapter 74, Laws of the Sixty-seventh General Assembly, 1977 session, the commission will hold a special hearing with a quorum of at least five. At said meeting, the commission may decide whether to refer this matter to the attorney general's office for appropriate action.

805—3.17(67GA,ch74) Decisions and orders — rehearing. A proposed or final decision or order in a contested case shall be in writing or stated in the record. A proposed or final decision shall include findings of the fact and conclusions of law, separately stated.

3.17(1) *Findings of fact.* Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. Parties shall be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order in the manner provided by chapter 17A of the Code of Iowa.

3.17(2) *Rehearing application.* Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within twenty days after the issuance of any final decision by the agency in a contested case. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the commission grants the application within twenty days after its filing.

805—3.18(67GA,ch74) Judicial review. The judicial review provisions of this section shall be the exclusive means by which a person or party who is aggrieved or adversely affected by commission action may seek judicial review of such action. However, nothing in this section shall abridge or deny to any person or party who is aggrieved or adversely affected by any agency action the right to seek relief from such action in the courts.

3.18(1) *Agency action reviewable.* A person or party who has exhausted all adequate administrative remedies and who is aggrieved or adversely affected by any final agency action is entitled to judicial review thereof under this section. A preliminary, procedural or intermediate commission action is immediately reviewable if all adequate administrative remedies have been exhausted and review of the final agency action would not provide an adequate remedy. If a declaratory ruling has not been rendered within thirty days after the filing of a petition, therefor, under section 17A.9 of the Code of Iowa, or if the agency declines to issue such a declaratory ruling after receipt of a petition therefor, any administrative remedy available under section 17A.9 shall be deemed inadequate or exhausted.

3.18(2) *Instituting judicial review.* Proceedings for judicial review shall be instituted by filing a petition either in Polk county district court or in the district court for the county in which the petitioner resides or has its principal place of business. When a proceeding for judicial review has been commenced, a court may, in the interest of justice, transfer the proceeding to another county where the venue is proper. Within ten days after the filing of a petition for judicial review file stamped copies of the petition shall be mailed by the petitioner to all parties named in the petition and, if the petition involves review of agency action in a contested case all parties of record in that case before the commission. Such mailing shall be jurisdictional and shall be addressed to the parties at their last known

3. Promotions;
4. Employee benefits;
5. Working hours;
6. Vacation and sick leave;
7. Lines of authority;
8. Rules of conduct;
9. Disciplinary actions and termination of employees;
10. Methods for handling cases of inappropriate client care;
11. Work performance appraisal;
12. Employee accidents and safety;
13. Arbitration of employee grievances;
14. Policy on staff persons suspected of using or abusing substances;
15. Training and staff development which will include, but not be limited to, orientation of new staff members or volunteers, ongoing training, laws, rules and regulations and confidentiality regulations.

b. The written personnel policies and practices shall include an equal employment opportunity affirmative action plan for hiring members of protected classes.

c. The board of directors shall develop and approve all personnel policies and practices prior to their implementation.

d. There shall be documentation verifying that personnel policies and practices are reviewed at least annually by the board of directors.

e. There shall be written job descriptions for all positions. Each job description shall identify specifically:

1. Job title;
2. Tasks and responsibilities of the job;
3. The skills, knowledge, training, education and experience required for the job; and,
4. Lines of authority.

f. Job descriptions shall accurately reflect the actual job situation and shall be reviewed at least annually by the executive director and/or whenever there is a change in required qualifications or duties.

g. All job descriptions shall be included in the personnel section of the procedures manual.

h. It shall be explicitly indicated in the personnel policies that past experience with substance use and abuse or prior criminal involvement shall not be a factor in employment.

i. The written personnel policies and practices shall include a mechanism for the evaluating of personnel performance on at least an annual basis. This evaluation shall be in writing. There shall be documentary evidence that this evaluation is reviewed with the employee and that the employee is given the opportunity to respond to this evaluation.

j. Any wages paid to clients engaged in vocational training or work within the program shall be in accord with local, state and federal requirements.

k. There shall be a personnel record kept on each staff member. These records shall contain as applicable:

1. Job description;
2. The application for employment;
3. Letters of recommendation, and the results of investigations of references;
4. Verification of training, experience, and all professional credentials;
5. Wage and salary information, including all changes;
6. Job performance evaluation;
7. Incident reports;
8. Disciplinary actions taken;
9. Documentation that the staff person is free of communicable or infectious diseases; and,
10. Annual documentation of review and adherence to confidentiality laws and regulations.

l. There shall be written policies and procedures designed to ensure confidentiality of personnel records and a delineation of authorized personnel who have access to various types of personnel information.

3.22(6) *Medical services.* The applicant shall have policies and procedures developed in conjunction with a physician to examine and evaluate substance abusers seeking treatment or rehabilitation. Individuals who are scheduled to enter a residential/intermediate facility, chemotherapy or emergency care facility shall undergo a medical history and physical examination. Laboratory examinations may be done as deemed necessary by the physician. A medical history, the physical and laboratory examinations required for these clients shall be performed as soon as possible, but no later than twenty-one days after entrance into the program.

The applicant shall have written policies and procedures defining the appropriate action to be taken when a medical emergency arises.

3.22(7) *Emergency medical services.* The program shall ensure, by affiliation agreement, or contract, that emergency medical services at a general hospital are available on a twenty-four-hour basis.

a. The program will maintain emergency medical service coverage on a twenty-four hour, seven days a week, basis.

b. The program shall ensure that all community service providers, medical facilities, law enforcement agencies, and other appropriate personnel are informed of the twenty-four hour emergency services and treatment available.

3.22(8) *Urinalysis.* All programs serving clients who are receiving treatment for use and/or abuse of a controlled substance, except marijuana, shall establish policies and procedures for the collection and utilization of urinalysis results.

a. Urine specimens obtained from clients shall be collected under direct supervision and analyzed for morphine, methadone, cocaine, codeine, amphetamines, barbiturates and other substances as indicated.

b. Any laboratory used by the program for urine testing and analysis shall comply with all federal and state proficiency testing programs.

c. Client records shall reflect the manner in which urine test results are utilized in treatment.

d. For programs with a urinalysis service, policies shall be developed concerning measures to be employed when urine specimens of clients are found to contain the aforementioned substances.

3.22(9) *Supportive and professional services.* The program shall have the following services available to all clients in need of these services either onsite or through a written agreement with an outside agency:

a. Vocational rehabilitation services;

b. Legal services;

c. Educational services;

d. Financial counseling;

e. Recreational activities;

f. Treatment supervisor services: The program shall have available consultation from a treatment supervisor. This individual will assist the program in developing policies and procedures relating to the assessment and treatment of psychopathology. The treatment supervisor will assist in the training of the staff, reviewing of case records, and providing assistance to the clinical staff in client treatment.

3.22(10) *Staff development and training.* There shall be written policies and procedures that establish a staff development program. One individual shall be designated to supervise staff development activities. The staff development program shall include orientation for entry-level staff, on-the-job training, in-service education, and opportunities for continuing job-related education.

a. Initial training of each treatment staff member shall include, but not be limited to, structured, scheduled orientation relating to the psychosocial, medical, pharmacological, and legal aspects of substance abuse prevention activities; an orientation to the program and community resources; and counseling skill development.

b. The program shall establish on-site training programs or enter into relationships with outside resources capable of meeting staff training needs.

c. The staff development program shall take steps to ensure that staff members are kept informed of new developments in the field of substance abuse treatment and rehabilitation.

d. In-service training programs shall be instituted when program operations or functions are changed, and shall be designed to allow staff members to develop new skills so that they may effectively adapt to such changes.

e. Staff development activities and participation in state, national and regional training shall be planned and scheduled. These activities shall be documented in order to evaluate their scope, effectiveness, attendance, and amount of time spent on such efforts. The written plan for on-site staff development and activities for professional growth and development of program personnel shall be annually reviewed and approved by the board of directors and shall be available to all personnel.

f. Minutes shall be kept of on-site training activities and shall include, but not necessarily be limited to:

1. Date of the meeting;
2. Names of persons attending;
3. Topics discussed; to include name and title of presentors; and,
4. Recommendations made.

g. The individual responsible for supervising staff development activities shall conduct at least an annual needs assessment and shall meet at least quarterly with staff members to determine whether they believe staff development activities are suited to their needs and to elicit their advice on ways of improving these activities.

h. The local program shall document staff attendance and participation at local, regional, state and national training opportunities.

3.22(11) *Intake and assessment.* There shall be clearly stated written criteria for determining the eligibility of individuals for admission.

a. The program shall have written policies and procedures governing a uniform intake process that defines:

1. The types of information to be gathered on all applicants prior to admission;
2. Procedures to be followed when accepting referrals from outside agencies or organizations; and,
3. The types of records to be kept on all applicants.

b. The following information shall be collected and recorded on standardized formats developed by the program on all applicants prior to or at the time of admission and shall become part of the applicant's case record:

1. Identifying information which includes name, address, telephone number;
2. Demographic information which includes date of birth, sex, race or ethnic origin;
3. Name and address of referral sources;
4. Presenting problem;
5. Substance abuse history which will include type, amount, frequency and duration of substance use;
6. Family history which will describe the family composition and dynamics;
7. Education status and history which describes levels of achievement;
8. Vocational/employment status and history which will describe skills and/or trades learned; record of jobs held, duration, reasons for leaving;
9. Peers and friends.
10. Legal history which will describe any involvement with the criminal justice system;
11. Medical and health history including any incidences of overdoses, physical indicators and contagious diseases with necessary action as required by the Code of Iowa;
12. Psychological history and mental status;
13. Any other relevant information which will assist in formulating an initial assessment of the client; and,
14. A financial evaluation to include insurance coverage.

c. Each new admission, readmission or transfer admission shall be interviewed by a treatment supervisor or by his/her designee, with a treatment supervisor reviewing all intake information. When such a review is conducted, the treatment supervisor shall document all clinical observations and recommendations in the applicant's case record. If in the judgment of the treatment supervisor, psychological, psychiatric or further medical examinations are indicated, such assistance shall be obtained and documented in the case record.

d. When an applicant refuses to divulge information and/or to follow the recommended course of treatment, this refusal shall be noted in the case record.

e. During the intake process, documentation shall be made that applicants understand:

1. General nature and goals of the program;
2. Rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;
3. In a nonresidential program, the hours during which services are available;
4. Treatment costs to be borne by the client, if any;
5. Client's rights and responsibilities; and,
6. Confidentiality laws, rules and regulations.

f. Sufficient information shall be collected during the intake process so that an assessment of the client's status is complete and an initial treatment plan can be developed.

g. There shall be policies and procedures for emergency admissions.

3.22(12) *Treatment plans.* Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the client's case record.

a. An initial treatment plan shall be developed upon intake and shall delineate the client's immediate needs and actions required to meet these needs. This plan shall be in effect until a comprehensive treatment plan is developed.

b. A comprehensive treatment plan shall be developed as soon after the client's admission as is clinically feasible, but no later than twenty-one days after the admission date.

c. The individualized treatment plan shall minimally contain:

1. A clear and concise statement of client's current strengths and needs;

2. Clear and concise statements of the short and long-term goals the client will be attempting to achieve;

3. A delineation of primary and support services to be provided the client;

4. Type and frequency of therapeutic activities in which the client will be participating;

5. The sequence in which the service will be provided; and,

6. The staff person(s) to be responsible for the client's treatment.

d. Treatment plans shall be developed in partnership with the client. Treatment plans shall be reviewed by the primary counselor and the client as often as necessary, but no less than every sixty days for outpatient modalities and no less than every thirty days for other modalities except aftercare. Treatment plans shall be reviewed by a clinical professional regularly and revised as often as necessary, but no less than at a frequency of sixty days for outpatient modalities and thirty days for all other modalities except aftercare.

e. The reviews shall consist of a reassessment of the client's current status to include accomplishments and needs and a redefining of treatment goals when appropriate. The date of the review and any change, as well as the individuals involved in the review, shall also be recorded.

f. The use of abstract terms, technical jargon, or slang should be avoided in the treatment plan, and the plan should be written in a manner readily understandable to the average client. The program should provide the client with a copy of the initial treatment plan and all subsequent revisions upon request.

3.22(13) *Progress notes.* A client's progress and current status in meeting the goals set in the treatment plan, as well as efforts by staff members to help the client achieve these stated goals, shall be recorded in the client's case record following each therapeutic session.

a. All progress notes shall be dated and signed, including staff title, by the individual rendering service.

b. All entries that involve subjective interpretations of a client's progress should be supplemented with a description of the actual behavioral observations which were the basis for the interpretation.

c. The use of abstract terms, technical jargon, or slang should be avoided in progress notes.

d. If a client is receiving services from an outside resource, the program shall attempt to secure a written copy of status reports and other client records from that resource.

e. The program shall develop a uniform progress note format to be used by all clinical staff.

3.22(14) *Referral.* The program shall have written referral policies and procedures which facilitate referrals between the program and other service providers in such a manner to ensure continuity of care.

a. Written referral agreements shall minimally contain:

1. The services the resource agrees to provide;

2. The duration of the agreement;

3. The procedures to be followed in making referrals; and,

4. A state of conformity to federal, state and program confidentiality requirements.

b. The program shall maintain a list of all appropriate resources available within the service area. The list of resources shall minimally contain:

1. The name and location of the resource;

2. The types of services provided by the resource;

3. The name(s) of a contact person(s);

4. The criteria for determining a client's eligibility for services;

5. A written log shall be maintained indicating the nature and the disposition of all referrals made to and from outside resources.

3.22(15) *Aftercare.* The program shall have policies and procedures to provide aftercare services. These services shall be designed to support and increase the gains made to date in the treatment process.

a. The program shall use, whenever appropriate, existing community resources for support services during the aftercare period.

b. The delivery of aftercare services shall be based upon an individualized aftercare plan. The individualized aftercare plan shall minimally contain:

1. A clear and concise statement of client's current strengths and needs;
2. Clear and concise statements of the short and long-term goals the client will be attempting to achieve;
3. A delineation of primary and support services to be provided the client;
4. Type and frequency of therapeutic activities in which the client will be participating;
5. The sequence in which the service will be provided;
6. The means by which the client may re-enter a primary care modality; and,
7. The staff person(s) to be responsible for the client's aftercare services.

c. Aftercare plans shall be developed by the primary therapist in partnership with the client within thirty days after assignment to the aftercare component. This plan shall be documented in the client case record and minimally contain:

1. A reassessment of the client's current status, to include accomplishments and needs;
2. Updating of the aftercare goals, where appropriate;
3. The date of the review; and,
4. The individuals involved in the review.

d. The program should provide the client with a copy of the initial plan and all subsequent revisions upon request.

3.22(16) *Follow-up.* The program shall establish and maintain policies and procedures for the purpose of providing follow-up services to referred and discharged clients. For discharged clients, follow-up services shall be provided in a systematic manner at 90, 180, and 360-day intervals after discharge. For clients referred, follow-up services shall be provided on an ongoing basis so as to assure continuity of care.

a. The results of the follow-up activity shall be documented in the individual client's case file in such a manner as to indicate;

1. Date of contact;
2. Staff person responsible for initiating the contact; and,
3. Results of the contact.

b. These policies and procedures shall be in compliance with DHEW, 42 CRF, Part 2, Regulations on Confidentiality of Alcohol and Drug Abuse Client Records.

3.22(17) *Client case records.* There shall be written policies and procedures governing the compilation, storage and dissemination of individual client case records.

a. These policies and procedures shall ensure that:

1. The program exercises its responsibility for safeguarding and protecting the client case record against loss, tampering, or unauthorized disclosure of information;
2. Content and format of client records are kept uniform; and,
3. Entries in the client case record are signed and dated.

b. The program shall provide adequate physical facilities for the storage, processing, and handling of client case records. These facilities shall include suitably locked, secured rooms or file cabinets.

c. Appropriate records shall be readily accessible to those staff members providing services directly to the client and other individuals specifically authorized by program policy. Records should be kept in proximity to the area in which the client normally receives services.

d. There shall be a written policy governing the disposal and maintenance of client case records. Client case records shall be maintained for not less than five years from the date they are officially closed.

e. All client case records shall be marked "CONFIDENTIAL," or bear a similar cautionary statement. Each file cabinet or storage area containing such client case records shall be locked and be conspicuously marked "CONFIDENTIAL INFORMATION," or bear a similar cautionary statement.

f. The governing body shall establish policies that specify the conditions under which information on applicants or clients may be released and the procedures to be followed for

3.23(3) *Hours of operation.* Hours of operation shall be during periods which make outpatient services accessible to clients and the general public. During hours which the program does not operate, the program's hours of operation shall be conspicuously displayed so as to communicate those hours to the general public.

805—3.24(67GA,ch74) Specific standards for residential/intermediate care substance abuse program. A residential/intermediate care program shall be designed to provide comprehensive diagnostic, treatment and rehabilitation services on a scheduled or nonscheduled basis in a residential therapeutic setting.

3.24(1) *Hours of operation.* A residential/intermediate program shall operate no less than seven days per week, for no less than twenty-four hours a day.

3.24(2) *Plan.* This component shall have a written plan.

a. This plan shall include, but not limited to, the following:

1. Treatment philosophy;
2. Objectives;
3. Organizational structure;
4. The role of the co-ordinator/director in charge of this service;
5. Specification of the lines of authority and staff responsibility;
6. Admission criteria; and,
7. Interrelationship with other service components and providers.

b. There shall be documentation that this plan is reviewed and updated at least annually and that it has been approved by the governing authority.

3.24(3) *Use of chemical substances.* A residential/intermediate care program shall have written policies regarding the use of chemical substances in the facility.

3.24(4) *Program participation.* All residents of the residential/intermediate care program shall be active participants in the therapeutic program.

3.24(5) *Employed clients.* A residential/intermediate care program shall insure that all employed clients receive scheduled therapeutic services.

3.24(6) *Facility.* Residential/intermediate service facilities shall comply with appropriate state department of health rules, state fire marshal's rules and fire ordinances, and appropriate local health, fire, occupancy code, and safety regulations. The program shall maintain documentation of such compliance.

3.24(7) *Meals.* A residential/intermediate care program shall provide a minimum of three meals per day to each client enrolled in the program. Residential/intermediate care programs such as halfway houses, live-in/work-out centers, and other programs where clients are not present during meal time, provisions shall be made to provide the necessary meals. Menus shall be prepared in consultation with a registered dietitian. If clients are utilized to prepare meals, the program shall document conformity with all commonly accepted policies and procedures of state health regulations and food hygiene.

805—3.25(67GA,ch74) Specific standards for methadone treatment centers. Except hospital-based programs, all programs which use methadone in treatment of narcotic addicts must conform to licensure standards of the department and to the department of health, education and welfare, food and drug administration methadone regulations as articulated in 21, CFR, part 5.1, 291.505.

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CHAPTER 4*
PROCEDURES

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

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

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

4.1(2) Reserved.

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

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

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

805—4.4(17A) Notice of hearings for contested cases. The chairperson of the commission shall send notice of the hearing to all interested parties by certified mail or by personal service as in civil actions, at least ten days prior to the date of the hearing unless a shorter period of time is agreed upon by all parties. The notice shall include the time, the place and nature of the hearing and a reference to the particular sections of the statutes and rules involved.

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

b. The record in a contested case shall include:

1. All pleadings, motions and intermediate rulings.
2. All evidence received or considered and all other submissions.
3. A statement of all matters officially noticed.
4. All questions and offers of proof, objections and rulings therein.
5. All proposed findings and exceptions.
6. Any decision, opinion or report by the officer presiding at the hearing.

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

Transportation, Lucas Office Building, Des Moines, Iowa 50319.

This rule is intended to implement sections 321.42 and 321.92 of the Code.

820—[07,D]11.52(321) Odometer statement. When an odometer statement is required under the provisions of section 321.71(7) and such statement cannot be furnished at the time that an application is made for a certificate of title, a certificate of title shall not be issued to the applicant except under the following conditions:

11.52(1) If the transferor has furnished an odometer statement to the transferee and the transferee has lost the statement prior to the time the transferee has made an application for a certificate of title, or if the transferor has failed to furnish an odometer statement to the transferee prior to the time the transferee has made an application for a certificate of title, and in either event the transferee has made an attempt in good faith to locate the transferor for the purpose of obtaining an odometer statement and cannot locate such transferor, the transferee may file a sworn statement of such fact, on a form available from any county treasurer or the department.

11.52(2) The sworn statement shall be accepted by the county treasurer or department in lieu of the statement required in section 321.71(7). The title of the form is "Odometer Certification and Statement of Fact".

820[07,D]11.53(321) Validation stickers and gross weight emblems. Validation stickers and gross weight emblems shall be attached to each registration plate in the following manner:

11.53(1) Validation stickers shall be attached to the lower right hand corner of each plate.

11.53(2) Gross weight emblems shall be attached to lower left hand corner of each plate.

This rule is intended to implement section 321.34 of the Code, as amended by Acts of the Sixty-seventh General Assembly, 1977 session, chapter 103, section 10.

820—[07,D]11.54(321) Registration card issued for trailer type vehicles. The registration card issued for trailer type vehicles shall be carried in the vehicle which is described on such card or the registration card may be carried in the driver's compartment of the towing vehicle. If the registration card is carried in the vehicle which is described on such card, the registration card shall be enclosed in a registration card holder and such holder shall be attached to the vehicle in such a manner that the registration card may be viewed by any peace officer upon the request of that person.

820—[07,D]11.55(321) Forms. Forms relating to the registration of vehicles, certificate of title or other procedures covered under sections 321.18 to 321.173, may be obtained from the county treasurer or the Motor Vehicle Division, Department of Transportation, Lucas Office Building, Des Moines, Iowa 50319.

820—[07,D]11.56(321) Informal settlements and hearings. Whenever the department suspends, revokes, or denies the registration of a vehicle, registration card, registration plate or any nonresident or other permit under the provisions of chapter 321, the owner of the vehicle may request an opportunity for an informal settlement. If the matter cannot be resolved through an attempt at an informal settlement the owner of the vehicle may request a hearing. The following rules shall apply to informal settlements and hearings:

11.56(1) *Informal settlement.* Any person whose registration of a vehicle, registration card, registration plate or any nonresident or other permit has been suspended, revoked, or denied by the department may request an opportunity for an informal settlement. The request for an informal settlement shall be made in writing by the vehicle owner and shall be addressed to the Office of Vehicle Registration, Motor Vehicle Division, Department of Transportation, Lucas Office Building, Des Moines, Iowa 50319. The department shall

notify the vehicle owner of the time and place where the attempt for an informal settlement shall be held. The following rules shall apply to an attempt for an informal settlement:

a. The facts upon which the suspensions, revocation, or denial was based shall be reviewed.

b. The vehicle owner shall present whatever evidence that person may have which would indicate that the basis for the suspension, revocation, or denial is not valid.

c. The department hearing officer shall determine whether such evidence is substantiated and if it appears that the basis for the suspension, revocation, or denial was erroneous, the hearing officer shall recommend that the suspension, revocation, or denial be terminated.

d. If the department hearing officer determines that the suspension, revocation, or denial was based on a provision of chapter 321 of the Code and that such suspension, revocation, or denial was not erroneous, the hearing officer shall advise the department of such fact and the department shall extend the suspension, revocation, or denial.

e. If the attempt at an informal settlement does not resolve the controversy the vehicle owner may request a hearing.

11.56(2) *Hearings.* Any person whose registration of a vehicle, registration card, registration plate or any nonresident or other permit has been suspended, revoked, or denied under the provisions of chapter 321 may request a hearing. The request shall be made in writing by the vehicle owner and shall be addressed to the Vehicle Registration Office, Motor Vehicle Division, Department of Transportation, Lucas Office Building, Des Moines, Iowa 50319. The following rules shall apply to such hearings:

a. The hearing shall be held in accordance with the provisions of chapter 17A.

b. Following such hearing the department shall either rescind the order of suspension, revocation, or denial, or, good cause appearing therefore, shall extend the suspension, revocation, or denial.

c. Judicial review of the action of the department may be sought in accordance with the terms of the Iowa administrative procedures Act as set forth in chapter 17A.

11.57 to 11.60 Reserved.

820—[07,D]11.61(321) Reassignment of registration plates. Registration plates may be reassigned from the seller to the purchaser of a vehicle under the following conditions:

1. Ownership of the vehicle is held by a natural person or persons and not a corporation, association, co-partnership, company or firm; and

2. At least one of the persons listed on the registration receipt issued prior to the transfer is also listed on the registration receipt issued after the transfer.

This rule is intended to implement section 321.34(1) of the Code, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 103, section 10.

820—[07,D]11.62(321) Storage of registration plates, certificate of title forms and registration forms. Registration plates, certificate of title forms and registration forms which are consigned to county treasurers by the department shall be stored in a secure location. Such location may be within the office of the county treasurer which is accessible only to authorized persons or in a storage area located without the general office area assigned to the county treasurer. Any storage area located without the general office area assigned to the county treasurer shall be of such construction that it is accessible only to authorized persons, as designated by the county treasurer or department.

820—[07,D]11.63(321) Registration plates shall be issued in alphabetical or numerical sequence. Registration plates shall be issued in alphabetical or numerical sequence, in accordance to the sequence in which they have been consigned to the county treasurer by the department. No registration plate shall be issued to nor delivered to the owner of a vehicle prior to the time such plate is issued in the alphabetical or numerical sequence applicable to the consignment of such plates to a particular county by the department.