

*State of Iowa*

# Iowa

# Administrative

# Code

# Supplement

Biweekly  
April 19, 2000



**KATHLEEN K. BATES**  
ADMINISTRATIVE CODE EDITOR

**STEPHANIE A. HOFF**  
ASSISTANT EDITOR

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PUBLISHED BY THE  
STATE OF IOWA  
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement pages to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement pages incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement pages may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index and for the preliminary sections of the IAC: General Information about the IAC, Chapter 17A of the Code of Iowa, Style and Format of Rules, Table of Rules Implementing Statutes, and Uniform Rules on Agency Procedure.

**INSTRUCTIONS**  
FOR UPDATING THE  
**IOWA ADMINISTRATIVE CODE**

Agency names and numbers in the first column below correspond to the divider tabs in the IAC binders. Obsolete pages of the IAC are listed in the "Remove Old Pages" column. New and replacement pages included in this Supplement are listed in the "Insert New Pages" column. Carefully remove and insert pages as directed.

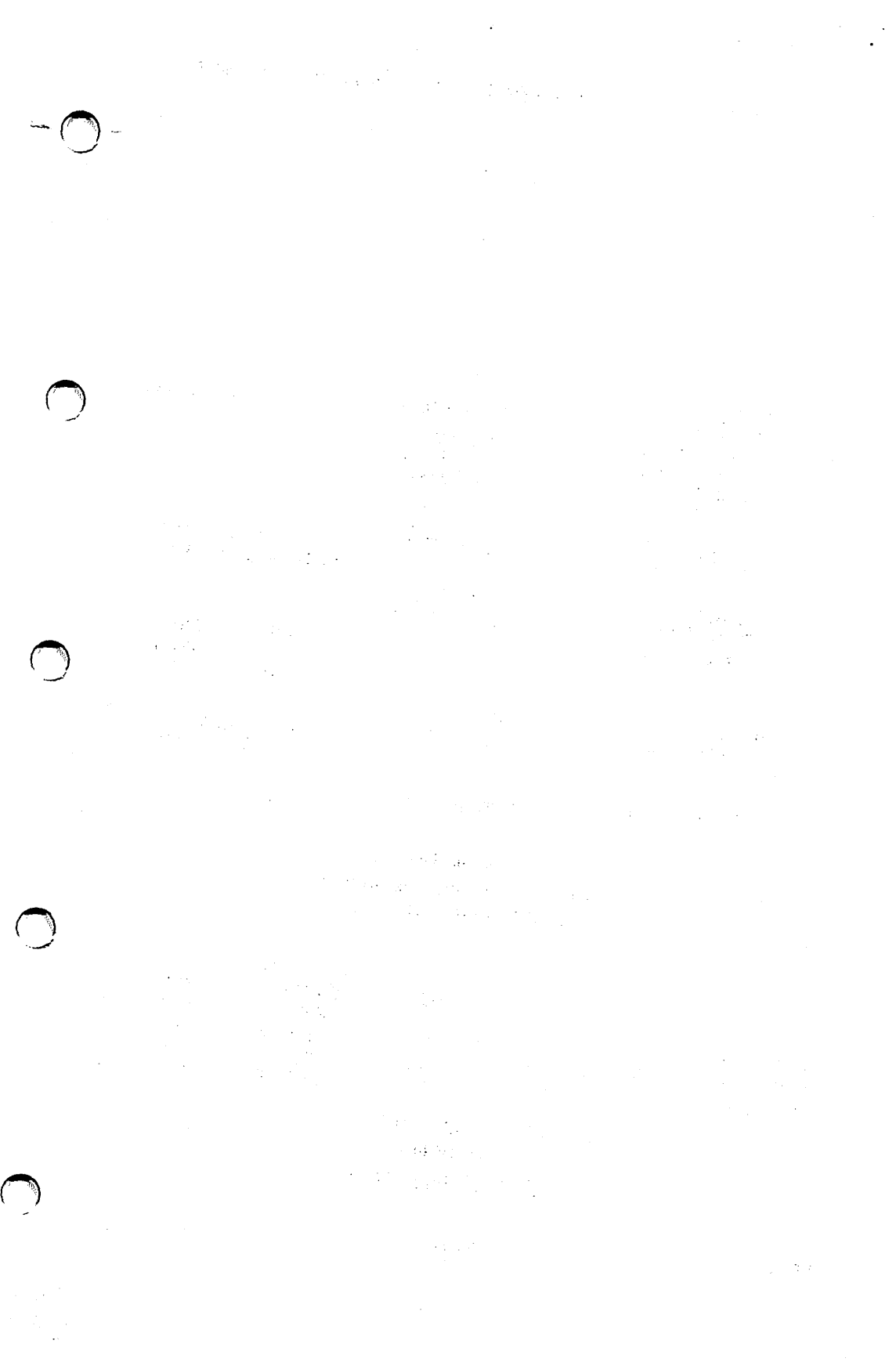
Editor's telephone: (515)281-3355 or (515)281-8157

Fax: (515)281-4424

**UPDATING INSTRUCTIONS**  
**April 19, 2000, Biweekly Supplement**  
[Previous Supplement dated 4/5/00]

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\*These pages may be archived for tracing the history of a rule.



## ELDER AFFAIRS DEPARTMENT[321]

Prior to 5/20/87, see Commission on the Aging[20]

Delay: Effective date (June 24, 1987) of Chapters 1 to 18 delayed 70 days pursuant to Iowa Code section 17A.4(5) by the Administrative Rules Review Committee at their June 9, 1987, meeting.

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CHAPTER 9  
RESIDENT ADVOCATE COMMITTEES

**321—9.1(231) Resident advocate committees established.**

**9.1(1) *Committee for each licensed facility.*** A resident advocate committee shall be established for each licensed health care facility as defined in Iowa Code section 135C.1, in accordance with Iowa Code section 135C.25 and chapter 231, and shall operate within the scope of these rules.

**9.1(2) *Committee membership.*** The committee shall consist of at least two members or a number sufficient to maintain a ratio of at least 1 member to 15 residents. The ratio shall be waived by the department if the committee demonstrates the ability to carry out the functions outlined in these rules with fewer members.

**9.1(3) *Committee member residence.*** Members shall reside within the service area of the facility.

**321—9.2(231) Application for committee membership.** Any individual may apply to the department for membership. AAAs and other organizations are encouraged to recommend names of potential volunteers for resident advocate committee membership to the department.

**9.2(1) *Application forms.*** Application forms may be obtained from any AAA, the department address in rule 321—2.1(231), or other organizations designated by the department.

**9.2(2) *Submission of forms.*** Each applicant shall complete and submit an application for membership to the department address in rule 321—2.1(231).

**9.2(3) *Membership restriction.*** Applications for membership on resident advocate committees will not be accepted if the applicant has an ownership interest in a facility; or is employed by the facility or a competing facility; or has been employed by the facility within the past three years; or is related to an employee, board member, or licensee of the facility; or is a public employee involved with the sponsoring or placement of residents in the facility; or is an administrator of a long-term care facility; or is a professional consultant to the facility. Relatives shall be defined as any one of the following: father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepchild, stepsister, half sister, half brother, grandparent or grandchild.

**9.2(4) *Waiver of membership restriction.*** The waiver of membership restriction for relatives in subrule 9.2(3) may be reviewed and approved by the executive director and granted, if it can be documented to the department that efforts have been made individually or jointly by the resident advocate committee, AAA, or the department to contact and recruit alternative applicants.

**9.2(5) *Committee membership for facilities for mentally ill, mentally retarded, or developmentally disabled.*** Applications for resident advocate committee membership for any facility caring primarily for persons who are mentally ill, mentally retarded, or developmentally disabled shall be accepted only after consultation with the director of the division of mental health, mental retardation and developmental disabilities of the Iowa department of human services. The applications shall be considered acceptable if the director of the division of mental health, mental retardation and developmental disabilities of the Iowa department of human services institutes no disqualifying action within ten days of notification of the proposed appointments.

**321—9.3(231) Appointment to resident advocate committees.**

**9.3(1) *Notification.*** Members of the resident advocate committee shall be appointed from individuals whose applications for membership have been accepted according to this rule. Appointments shall be made by letter within 45 days of receipt of applications by the executive director or designee. Appropriate AAAs and facilities shall be notified of the appointments.

**9.3(2) *Traits or skills.*** Appointment of resident advocate committee members may be made from accepted applicants who may, but are not required to, possess a combination of the following traits or skills: knowledge of the long-term care system; understanding of the aging process; training in the human services field; experience in complaint identification, processing, and documentation; a commitment to the welfare and rights of residents; and understanding of the types and needs of clients served by the facility.

**9.3(3) *Preference.*** Preference for membership on resident advocate committees may be given to applicants with backgrounds and expertise that differ from existing members of the same committee.

**321—9.4(231) Cancellation of appointments to resident advocate committees.**

**9.4(1) *Reasons for cancellation.*** A resident advocate committee member's appointment may be canceled by the executive director for any of the following reasons: falsification of information on the application for membership form, acting as a member without appointment, attending less than one-half of the meetings convened each year by the resident advocate committee chairperson, voluntary resignation, and actions which are found by the executive director to violate these rules or the intent of the ombudsman program.

**9.4(2) *Filing an objection.*** A facility administrator who objects to the membership of the resident advocate committee for that facility may file a written objection with the executive director. The objection shall be considered and investigated as a confidential complaint.

**9.4(3) *Notification of cancellation.*** The executive director shall notify, in writing, the remaining committee members, the appropriate AAA, and the facility of the cancellation of resident advocate committee members' appointments.

**321—9.5(231) Request for reconsideration of appointment or cancellation of appointment.**

**9.5(1) *Time of request.*** A request for reconsideration concerning the appointment or cancellation of the appointment of a resident advocate committee member may be made in writing to the department within 30 days of the written notice of the appointment or cancellation.

**9.5(2) *Time for response.*** The executive director shall consider the request and notify the requesting party of the director's decision regarding the request within 30 days of receiving written notice of the request.

**321—9.6(231) Resident advocate committee structure and meetings.**

**9.6(1) *Structure.*** Every committee shall have a chairperson and secretary selected by the membership. The chairperson shall coordinate the activities of the committee. The secretary shall record minutes of each meeting and prepare reports as necessary.

**9.6(2) *Meetings.*** The committee shall meet at least quarterly and on other occasions as required to accomplish its responsibilities. The chairperson shall notify all members of the time and place of each meeting.

**a.** The administrator or staff of the facility shall not attend committee meetings except upon request of the committee.

**b.** Confidential information shall not be discussed during meetings when members of the general public are present.

**c.** The secretary shall submit written minutes to the administrator and to the resident advocate coordinator if the facility is a nursing facility or residential care facility.

**d.** Committee minutes shall be retained by the facility for a period of at least two years and shall be available to the department of inspections and appeals and the department of elder affairs upon request.



**321—9.7(231) Responsibilities of the committee.**

**9.7(1) Duties.** The committee shall represent and advocate for the rights of residents of the facility.

**9.7(2)** The committee or individual members shall:

- a. Conduct ongoing reviews of each resident according to the procedures identified in rule 9.10(231);
- b. Investigate complaints and grievances according to the procedures established in rule 9.11(231); and
- c. Participate in a training session approved by the department at least once per year.

**321—9.8(231) Committee access and assistance.**

**9.8(1) Access.** The committee shall have access to the facility and private access to the residents.

**9.8(2) Assistance to the committee.** The committee may request information, advice and counsel from the facility administrator, medical or health professionals or specialists, AAAs, the department or from other state and local agencies.

- a. The physician's certification of care shall be made available to the committee by the administrator of the facility.
- b. Physicians who have patients residing in the facility shall have the responsibility of assisting the committee upon request.
- c. Upon contacting anyone on behalf of residents in the performance of duties, the resident advocate committee member shall clearly be identified as a resident advocate committee member who is a volunteer advocate and shall clearly state the purpose and justification for this contact.

**321—9.9(231) Confidentiality.**

**9.9(1) Restriction on access.** Resident advocate committee members shall not have access to the following unless access is granted by the resident or resident's responsible party:

- a. Medical, financial or personal records of the residents; or
- b. Records of the social services department of the facility.

**9.9(2) Nondisclosure of information.** The committee shall not disclose information concerning the residents or the operation of the facility in a manner that will identify individuals or the facility, except to the ombudsman program or as requested in proceedings involving the investigation of a facility by the department of inspections and appeals.

**321—9.10(231) Committee procedures.**

**9.10(1) Resident reviews.** To evaluate the degree of satisfaction that residents have with the quality of life experienced in the facility in which they reside, the following procedures shall be used:

- a. Resident reviews shall be recorded, including responses to questions asked of residents or their representatives.
- b. The committee shall establish a schedule for at least one private interview annually with each resident in the facility.

**9.10(2) Review visits.** Committee members shall make some visits to observe residents at different times of the day.

**9.10(3) Review reports.** The report of each resident review shall be discussed with the committee as appropriate. Reports shall be retained by the committee chairperson for a period of at least two years. The report shall be available to the department of inspections and appeals and department of elder affairs upon request.

**9.10(4) Complaints and grievances during reviews.** Complaints and grievances identified by the resident during resident reviews shall be handled according to subrule 9.11(2) and shall not be recorded with resident reviews.

**321—9.11(231) Committee response to complaints and grievances.**

**9.11(1) General rule.** Throughout the investigation of all complaints and grievances, the committee shall maintain objectivity and act as advocates for residents without being adversaries of the facility.

a. The dignity and privacy of residents will be maintained by all persons involved in a complaint or grievance investigation.

b. The committee may receive and investigate complaints or grievances regarding the rights and welfare of residents of a facility using the procedures appropriate to the source of the complaint, either from an individual or the department of inspections and appeals.

c. The committee shall solicit the input of the complainant or resident regarding the complainant's or resident's wishes on action to be pursued by the committee.

d. The purpose of the committee response to complaints or grievances is to seek the resolution of problems and prevent unnecessary recourse to regulatory action against a facility. This purpose shall not, however, prevent such regulatory action when necessary to protect or achieve the rights of residents.

**9.11(2) Action upon receipt of a complaint or grievance.** Upon receipt of a complaint or grievance, the committee will contact the facility administrator to discuss the allegations only if the contact does not violate confidentiality.

a. Information which may identify the complainant or resident shall be confidential unless the complainant or resident has given written permission to the resident advocate committee for the disclosure of the identity.

b. A committee member will investigate the complaint or grievance within seven calendar days of receipt or forward the complaint or grievance to the ombudsman. Life- or health-threatening complaints will be forwarded within 72 hours.

c. The investigating resident advocate committee member shall make an unannounced visit to the facility.

d. The committee member investigating the complaint or grievance will, to the extent possible, ascertain the facts of the situation by talking with residents, staff, and others who might have information regarding the matter under investigation and through personal observations of conditions and activities in the facility.

e. If a resolution has not been reached, the committee may contact the ombudsman program for follow-up action as appropriate.

f. The committee members are responsible for keeping the complainants informed of progress of the complaint.

**321—9.12(231) Complaints referred from the department of inspections and appeals.** The following procedures shall apply to complaints referred by the department of inspections and appeals to the department of elder affairs:

**9.12(1) Referral process.** Complaints or grievances received or initiated by the department of inspections and appeals may be referred for investigation to the resident advocate committee by transmittal to the ombudsman program at the department address in subrule 321—2.1(2).

**9.12(2) Confidentiality.** Information that may identify the complainant or resident shall be confidential.

**9.12(3) Notification.** The ombudsman program will provide adequate information within three days to a member of the appropriate resident advocate committee. Written notification will be provided within seven days.

**9.12(4) Investigation.** A committee member will investigate the complaint or grievance in accordance with rule 9.11(231).

**321—9.13(231) Role of the AAAs.** AAAs shall carry out the following activities in support of the ombudsman program in nursing facilities and residential care facilities:

1. Advise the ombudsman program on the training needs of resident advocate committees in the planning and service area of the area agency;
2. Assist the ombudsman program in training and coordinating the training of resident advocate committee members;
3. Distribute department-provided forms if requested by resident advocate committees;
4. Assist resident advocate committees to obtain legal and other technical assistance;
5. Recruit applicants for membership on resident advocate committees; and
6. Assist in the resolution of complaints or grievances being investigated by resident advocate committees or the ombudsman program as requested.

**321—9.14(231) Approval of training for committees in nursing facilities and residential care facilities.**

**9.14(1) Potential provider requirements.** The provider of proposed training shall submit the training agenda, facility, and objectives to the ombudsman program for approval 30 days prior to the date of the proposed training.

**9.14(2) Time for approval or disapproval.** The ombudsman program shall approve or disapprove the proposal and notify the provider of the proposed training within ten working days of receipt of the proposal.

**9.14(3) Provider reports.** Upon completion of the resident advocate committee training, the provider of the training shall submit a list of the name and address of each resident advocate committee member trained and the name and address of the long-term care facility at which each trained member serves, to the resident advocate coordinator within ten days following completion of the training course. The ombudsman shall audit records at least once per year or as needed.

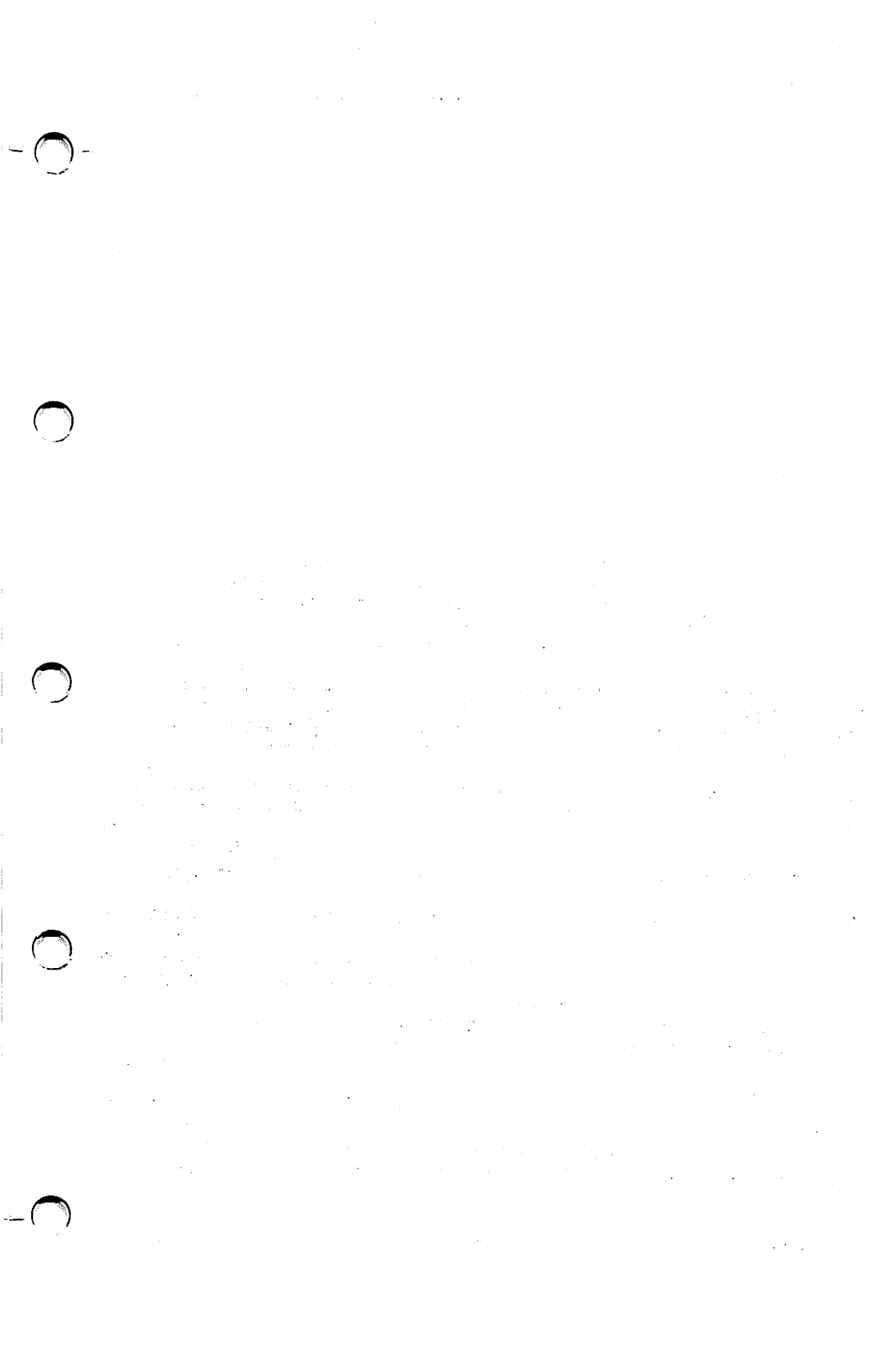
These rules are intended to implement Iowa Code chapter 231.

[Filed 5/1/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]\*

[Filed emergency 8/20/87—published 9/9/87, effective 9/2/87]

[Filed 7/8/88, Notice 1/27/88—published 7/27/88, effective 8/31/88]

[Filed 3/30/00, Notice 2/23/00—published 4/19/00, effective 5/24/00]



**CHAPTER 10**  
**SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)**

[Prior to 5/20/87, see Aging, Commission on the[20] rules 8.67 to 8.70]

**321—10.1(231) Scope and purpose.**

**10.1(1) Scope.** All procedures and rules used to operate this program shall be in accordance with Title V of the Older Americans Act as amended in 1984, and 20 CFR 674, and these rules.

**10.1(2) Purpose.**

- a. The SCSEP is designed to provide, foster and promote useful, part-time community service employment for persons with low incomes who are 55 and older.
- b. Services provided under this program shall contribute to the general welfare of the community.
- c. Employment in the program shall result in an increase in employment opportunities which would not otherwise be available.

**321—10.2(231) Eligibility for service.**

**10.2(1) Individual's eligibility.** To be eligible for participation in the SCSEP, an applicant shall:

- a. Be aged 55 or older;
- b. Be a current resident of the state of Iowa and a citizen of the United States; and
- c. Meet income guidelines established annually by the U.S. Department of Labor.

**10.2(2) Priority eligibility.** A person who is eligible and who has priority status as defined in sub-rule 10.3(1), paragraph "a," will be given first consideration for an SCSEP position.

**321—10.3(231) Program requirements.**

**10.3(1) Subproject sponsor responsibilities.** Each SCSEP subproject sponsor shall:

- a. Ensure that priority in providing employment positions shall be given to eligible individuals who are aged 60 or over, are applying for reenrollment, are below the poverty level, or who have temporary positions;
- b. Meet performance goals based on Department of Labor guidelines and additional goals established in the multiyear area plan;
- c. Coordinate the SCSEP with the retired Iowans community employment program and the Job Training Partnership Act, older individuals program, to ensure opportunities for unsubsidized employment;
- d. Designate a member of its staff as an SCSEP coordinator to ensure timely reporting and performance of required functions;
- e. Provide evidence that enrollees reside in the community near where they are employed;
- f. Provide evidence that enrollees are not performing work which is the same or essentially the same as that performed by any other person who is displaced;
- g. Assist enrollees in attending approved training sessions sponsored by the department or other agencies or organizations;
- h. Provide expense reimbursement and regular compensation for enrollees attending required training;
- i. Ensure that training of enrollees does not exceed 260 hours during a fiscal year;
- j. Provide safe and healthful conditions for enrollees at worksites;
- k. Provide enrollees with reimbursement for expenses such as transportation which is required in the direct performance of the job;
- l. Rescinded IAB 11/13/91, effective 12/18/91;

- m.* Ensure that opportunities for physical examinations are provided to enrollees annually but not more than 15 months from the previous physical, or that a signed physical examination waiver is obtained;
- n.* Ensure that no enrollee works more than 1300 hours during each fiscal year;
- o.* Provide enrollees and host agencies with orientation to program purposes, goals and requirements;
- p.* Provide supportive services where needed by an enrollee for participation in the program;
- q.* Provide written job descriptions to enrollees immediately after entry into the program;
- r.* Complete enrollment or reenrollment forms for each individual in the program. Recertification forms are completed within 12 months of enrollment or reenrollment and at least once during each program year;
- s.* Provide each enrollee with a copy of the host agency grievance procedures and the subproject sponsor's grievance procedures;
- t.* Provide each enrollee with information about prohibited political activity;
- u.* Ensure that nepotism is not practiced in the hiring of enrollees;
- v.* Ensure that minorities and limited-English-speaking individuals are enrolled in the program at least in proportion to their number in the eligible population in the planning and service area;
- w.* Maintain the authorized enrollment level and provide for temporary positions with approval of the department when underspending occurs;
- x.* Perform evaluations of each host agency at least annually;
- y.* Coordinate and cooperate with national sponsors in the establishment of authorized positions in each county in accordance with equitable distribution requirements; and
- z.* Maintain records as required in these rules.

**10.3(2) *Department responsibilities.*** The department shall:

- a.* Issue instructions for application for SCSEP funds in the multiyear area plan;
- b.* Monitor subproject sponsors at least annually;
- c.* Provide technical assistance to subproject sponsors upon request or when monitoring indicates compliance violations or failure to meet performance goals;
- d.* Provide training workshops for enrollees, SCSEP coordinators and other subproject sponsor employment staff;
- e.* Coordinate the allocation of authorized positions with national sponsors according to equitable distribution requirements;
- f.* Report to the Department of Labor annually on the status of equitable distribution efforts;
- g.* Rescinded IAB 11/13/91, effective 12/18/91;
- h.* Report to the Department of Labor each quarter or as required on SCSEP activity and enrollee characteristics;
- i.* Coordinate the SCSEP with the job service division of the department of employment services, the department of education, the department of economic development and other agencies which provide employment services to elder Iowans; and
- j.* Maintain records as required by 321—subrule 5.13(1).

**10.3(3) *Complaints procedures.*** The department shall resolve complaints of applicants, enrollees, subproject sponsors and host agencies following these procedures:

- a.* An applicant or enrollee shall report in writing to the subproject sponsor an alleged violation of law or perceived unfair treatment within 15 days of its occurrence.
- b.* The subproject sponsor and the host agency shall develop complaint procedures which provide for resolution within 15 days of the official filing.

c. Applicants or enrollees may file an appeal with the department within 15 days of a negative determination or a failure to act by a host agency or the subproject sponsor.

d. The department shall immediately refer the complaint to the department of inspections and appeals for its consideration. The department of inspections and appeals shall render a decision within 15 days after receipt of the complaint from the department.

e. Complaints alleging violation of law may be appealed to the Department of Labor if not resolved by the host agency, subproject sponsor or the department within 60 days of the original filing.

f. Complaints alleging discrimination on the basis of race, color, sex, national origin, handicap or age, which are not resolved by the host agency, subproject sponsor or the department within 60 days, may be filed with the Director, Office of Civil Rights, U.S. Department of Labor, Washington, D.C. 20210. These complaints will be handled in accordance with the procedures in 29 CFR Parts 31 and 32 (July 1, 1990).

g. Complaints not alleging discrimination or violation of statute may be appealed to the department, but are not subject to appeal to the Department of Labor.

### **321—10.4(231) Funding criteria.**

**10.4(1) Application.** Application for SCSEP funds shall be made annually by area agencies on aging as part of the multiyear area plan submitted to the department for approval and shall conform to the procedures and requirements established in the multiyear area plan outlined in rules 4.20(231) and 4.21(231).

**10.4(2) Award.** Upon approval by the department, an award of funds shall be made to subproject sponsors each fiscal year subject to funding by the U.S. Department of Labor and the requirements for equitable distribution.

**10.4(3) Denial of award.** An application for SCSEP funding by a subproject sponsor may be denied if the subproject sponsor does not perform according to the guidelines of these rules or fails to meet the goals of their multiyear area plan approved by the department.

**10.4(4) Appeal.** An appeal to a decision made pursuant to these rules may be made according to the procedures outlined in subrule 10.3(2), paragraph "g," of these rules.

**10.4(5) Reallocation.** Reallocation of SCSEP funds may be made by the executive director according to the criteria defined in subrule 5.8(1), paragraph "b."

### **321—10.5(231) Monitoring and record keeping.**

**10.5(1) Subproject sponsor duties.** The subproject sponsor shall:

a. Submit performance, fiscal and program reports to the department according to instructions provided each year in the reporting manual;

b. Maintain files on each SCSEP enrollee containing the following: Immigration and Naturalization Service I-9 (Proof of Citizenship), application, enrollment form, recertifications (if applicable), skills assessments, training record, terms of employment agreement, physical examination report (or properly executed waiver), job description, performance evaluations, disciplinary actions, payroll records, and termination forms (if applicable); and

c. Maintain files for each host agency or worksite, and each file shall include:

- (1) The host agency or worksite agreement containing relevant program requirements;
- (2) Evidence that the host agency or worksite enrollee supervisor has received orientation; and
- (3) Host agency or worksite evaluation reports.

**10.5(2) Department duties.** The department shall:

a. Conduct desk monitoring of the SCSEP and may do on-site monitoring if circumstances require an inspection of subproject sponsor records;

b. Conduct an on-site assessment of each SCSEP subproject at least annually. The subproject sponsor shall be informed in writing of findings and recommended corrective actions. Assessment reports and responses shall be kept on file at the department and shall be open to inspection by authorized state and federal officials;

- c. Maintain files on SCSEP enrollees that include applications, recertifications, physical examination records, physical exam waivers, and termination forms (if applicable); and
- d. Maintain financial records as required by statute, regulation, administrative rule, or technical bulletin.

These rules are intended to implement Iowa Code chapter 231.

[Filed 5/20/82, Notice 3/17/82—published 6/9/82, effective 7/14/82]

[Filed 5/1/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]\*

[Filed 10/25/91, Notice 7/10/91—published 11/13/91, effective 12/18/91]

\*Effective date of Chapter 10 delayed 70 days by the Administrative Rules Review Committee.



- f. Provides for an annual evaluation by the governing board of the effectiveness of the quality improvement program; and
- g. Addresses accessibility and confidentiality of materials relating to, generated by or part of the quality improvement process.

This rule is intended to implement Iowa Code chapter 135B.

**481—51.4(135B) Governing board.** The governing board or the owner or the person or persons designated by the owner as the governing authority shall be the supreme authority in the hospital, responsible for the management, control, and appointment of the medical staff and functioning of the institution subject to the laws of the state of Iowa. The governing board shall appoint a medical staff which shall consist of one or more licensed physicians who shall be responsible to the governing authority for the clinical and scientific work of the hospital.

**481—51.5(135B) Medical staff.**

**51.5(1)** A roster of medical staff members shall be kept, and a copy of the roster shall be reported annually to the state department of public health.

**51.5(2)** All hospitals shall have one or more licensed physicians designated for emergency call service at all times.

**51.5(3)** A hospital shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopaths or osteopathic surgeons, dentists, certified health service providers in psychology, physician assistants or advanced registered nurse practitioners licensed under Iowa Code chapter 148, 148C, 149, 150, 150A, 152, or 153 or section 154B.7 solely by reason of the license held by the practitioner or solely by reasons of the school or institution in which the practitioner received medical schooling or postgraduate training if the medical schooling or postgraduate training was accredited by an organization recognized by the council on postsecondary accreditation or an accrediting group recognized by the United States Department of Education.

**51.5(4)** A hospital shall establish and implement written criteria for the granting of clinical privileges. The written criteria shall include, but not be limited to, consideration of the:

- a. Ability of the applicant to provide patient care services independently or appropriately in the hospital;
- b. License held by the applicant to practice;
- c. Training, experience, and competence of applicant;
- d. Relationship between the applicant's request for privileges and the hospital's current scope of patient care services;
- e. Applicant's ability to provide comprehensive, appropriate and cost-effective services.

**481—51.6(135B) Patient rights and responsibilities.** The hospital governing board shall adopt a statement of principles relating to patient rights and responsibilities. In developing a statement of principles, the hospital may use reference statements of patient rights and responsibilities developed by the American Hospital Association, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), American Osteopathic Association (AOA), and other appropriate sources.

**51.6(1)** The statement of principles shall be made available to patients of the hospital.

**51.6(2)** The statement of principles regarding patient rights shall, at a minimum, address:

- a. Access to treatment regardless of race, creed, sex, national origin, diagnosis, or source of payment for care;

- b. Preservation of individual dignity and protection of personal privacy in receipt of care;
- c. Confidentiality of medical and other appropriate information;
- d. Assurance of reasonable safety within the hospital;
- e. Knowledge of the identity of the physician or other practitioner primarily responsible for the patient's care as well as identity and professional status of others providing services to the patient while in the hospital;
- f. Nature of patient's right to information regarding the patient's medical condition unless medically contraindicated, to consult with a specialist at the patient's request and expense, and to refuse treatment to the extent authorized by law;
- g. Access to and explanation of patient billings; and
- h. Process for patient pursuit of grievances.

**51.6(3)** The statement of principles regarding patient responsibilities shall, at a minimum, address:

- a. Need of patient to provide accurate and complete information regarding the patient's health status;
  - b. Need of patient to follow recommended treatment plans;
  - c. Requirement that patient abide by hospital rules and regulations affecting patient care and conduct and be considerate of the rights of other patients and hospital personnel; and
  - d. Obligation to fulfill the patient's financial obligations as soon as possible following discharge.
- This rule is intended to implement Iowa Code chapter 135B.

**481—51.7(135B) Abuse.**

**51.7(1) Definitions.**

- a. Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.
- b. Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment.
- c. Sexual abuse includes, but is not limited to, the exposing of pubes to a patient, and the exposure of a patient's genitals, pubes, breasts or buttocks, fondling or touching the inner thigh, groin, buttocks, anus, or breast of a patient or the clothing covering these areas for sexual satisfaction, sexually suggestive comments or remarks made to a patient, a genital-to-genital or oral-to-genital contact or the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2.
- d. Domestic abuse, as defined in Iowa Code section 236.2, means the commission of assault under either of the following circumstances:
  - (1) The assault is between family or household members who resided together at the time of the assault; or
  - (2) The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
- e. Family or household members, as defined in Iowa Code section 236.2, are spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity, except children under the age of 18.

**51.7(2) Abuse prohibited.** Each patient shall receive kind and considerate care at all times and shall be free from mental, physical, and sexual abuse.

- a. Restraints shall be applied only when they are necessary to prevent injury to the patient or to others and shall be used only when alternative measures are not sufficient to accomplish their purposes.

(2) Delineation of the qualifications of individuals authorized to administer anesthesia as set out in the hospital's medical staff bylaws.

(3) For preanesthesia evaluation, appraisal of a patient's current condition, preparation of an intraoperative anesthesia record, and discharge criteria for patients.

(4) For equipment functioning and safety, including ensuring that a qualified medical doctor, osteopathic physician and surgeon or anesthetist checks, prior to the administration of anesthesia, the readiness, availability, cleanliness, and working condition of all equipment to be used in the administration of anesthetic agents.

(5) For minimizing electrical hazards in all anesthetizing areas.

(6) Quality assurance which shall at least include infection control procedures; integration of anesthesia services into various areas of the hospital; and ongoing monitoring, review, and evaluation of anesthesia services, processes, and procedures.

**51.28(2)** Policies and procedures may be adjusted as appropriate to reflect provision of anesthesia services in inpatient, outpatient, or one-day surgery settings.

This rule is intended to implement Iowa Code section 135B.7.

**481—51.29** Reserved.

**481—51.30(135B)** **Emergency services.** All hospitals shall provide for emergency service which offers reasonable care within the medical capabilities of the facility in determining whether an emergency exists, renders care appropriate to the facility and at a minimum renders lifesaving first aid and makes appropriate referral to a facility that is capable of providing needed services.

**51.30(1)** The hospital has written policies and procedures specifying the scope and conduct of patient care to be provided in the emergency service.

*a.* The policies specify the mechanism for providing physician coverage at all times as defined by the medical staff bylaws.

*b.* The policies provide for a planned, formal training program required of all personnel providing patient care in the emergency service. This program shall cover emergency care for patients of all ages.

*c.* The policies require that a medical record be kept on every patient given treatment in the emergency service and establish the medical record documentation. The documentation should include at a minimum appropriate information regarding the medical screening provided, except where the person refuses, then notation of patient refusal; physician documentation of the presence or absence of an emergency medical condition or active labor; physician documentation of transfer or discharge, stating the basis for transfer or discharge; and where transfer occurs, identity of the facility of transfer, acceptance of the patient by the facility of transfer, and means of transfer of the patient.

*d.* The policies and procedures are reviewed and approved annually by the governing board.

**51.30(2)** Hospital policies and procedures shall be developed in accordance with the hospital's medical, technological, personnel and equipment capabilities.

**481—51.31** Reserved.

**481—51.32(135B) Obstetric and neonatal services.**

**51.32(1)** All general or specialized hospitals providing for the obstetrical care of maternity patients shall be properly organized and equipped to provide accommodations for mothers and newborn infants. The supervision of the maternity area shall be under the direction of a qualified registered nurse, and there shall be accommodations for the isolation of infected cases.

**51.32(2)** Written policies and procedures shall be implemented governing obstetric and neonatal services that are consistent with the needs of the patient and resources of the hospital. Policies and procedures shall be developed in consultation with and with the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

- a. Obstetric and neonatal services under the direction of a qualified doctor of medicine or osteopathy.
- b. Delineation of the privileges and qualifications of individuals authorized to provide obstetrical/gynecological service as set out in the hospital's medical staff bylaws.
- c. The qualifications of nursing personnel and continuing education required.
- d. Adequate staffing for obstetrical and newborn services.
- e. Location and arrangement of obstetric and newborn services.
- f. Infection control and disease prevention.
- g. Ongoing quality assessment.

Reference sources to guide hospitals in the development of policies and procedures are: 641—Chapter 150, Iowa Regionalized System of Perinatal Health Care, Iowa Administrative Code, and Guidelines for Perinatal Care, Fourth Edition, American Academy of Pediatrics, American College of Obstetrics and Gynecology.

**481—51.33 Reserved.****481—51.34(135B) Pediatric services.**

**51.34(1)** All general or specialized hospitals providing pediatric care shall be properly organized and equipped to provide appropriate accommodations for children. The supervision of the pediatric area shall be under the direction of a qualified registered nurse.

**51.34(2)** Written policies and procedures shall be implemented governing pediatric services that are consistent with the needs of the child and resources of the hospital. Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

- a. Pediatric services under the medical direction of a qualified doctor of medicine or osteopathy.
- b. Delineation of the privileges and qualifications of individuals authorized to provide pediatric services as set out in the hospital's medical staff bylaws.
- c. The qualifications of nursing personnel and continuing education required, including care in the event of emergency situations.
- d. Adequate staffing and equipment for pediatric services including ancillary services. Staff participating in the care of pediatric patients shall have an interest in pediatrics and shall have specialized education appropriate to their profession for the care of pediatric patients.
- e. Ancillary services for pediatric patients shall be available and include, but not be limited to, pharmaceutical care, laboratory services, respiratory therapy, physical therapy and speech therapy.

**51.51(8) Radiology suite.** The suite shall be designed and equipped in accordance with the following references:

a. National Council on Radiation Protection and Measurements Reports (NCRP), Nos. 33 and 49.

b. Iowa department of public health 641—Chapters 38 to 41.

**51.51(9) Waste processing services—storage and disposal.** In lieu of the waste processing service requirements in the “Guidelines for Construction and Equipment of Hospital and Healthcare Facilities” in paragraph 51.51(2)“a,” space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal or a combination of these techniques. These techniques must comply with the following environmental protection commission rules: rules 567—64.2(455B) and 64.3(455B); solid waste requirements of rules 567—101.1(455B,455D), 102.1(455B), 104.1(455B), and 567—Chapters 106, 118 and 119; and air quality requirements of 567—subrules 22.1(1) and 23.4(12).

**51.51(10) Codes and standards.** See 481—subrule 51.50(10).

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

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

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

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

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

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

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

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

[Filed June 30, 1948]

[Filed 9/9/76, Notice 6/14/76—published 10/6/76, effective 11/15/76]

[Filed 11/12/76, Notice 10/6/76—published 12/1/76, effective 1/5/77]

[Filed 11/10/77, Notice 9/7/77—published 11/30/77, effective 1/4/78]

[Filed 12/28/84, Notice 10/10/84—published 1/16/85, effective 4/3/85]

[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]

[Filed 4/1/86, Notice 1/1/86—published 4/23/86, effective 5/28/86]

[Filed 5/15/86, Notice 2/26/86—published 6/4/86, effective 7/9/86]

[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]

[Filed 1/20/87, Notice 12/3/86—published 2/11/87, effective 3/18/87]

[Filed 3/12/87, Notice 12/31/86—published 4/8/87, effective 5/13/87]

[Filed 5/12/88, Notice 3/9/88—published 6/1/88, effective 7/6/88]\*

[Filed 5/13/88, Notice 3/9/88—published 6/1/88, effective 7/6/88]

[Filed 5/13/88, Notice 4/6/88—published 6/1/88, effective 7/6/88]

[Filed 11/17/88, Notice 8/10/88—published 12/14/88, effective 1/18/89]

\*Hospital Protocol for Donor Requests as it appeared in IAC 641—Chapter 180 prior to 4/4/90.

- [Filed 11/9/89, Notice 8/9/89—published 11/29/89, effective 1/3/90]
- [Filed 1/12/90, Notice 11/29/89—published 2/7/90, effective 3/14/90]
- [Filed 3/15/90, Notice 12/27/89—published 4/4/90, effective 5/9/90]
- [Filed emergency 7/13/90—published 8/8/90, effective 7/20/90]
- [Filed 9/28/90, Notice 8/8/90—published 10/17/90, effective 11/21/90]◊
- [Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
- [Filed 12/2/93, Notices 10/13/93—published 12/22/93, effective 1/26/94]††
- [Filed 3/11/94, Notice 2/2/94—published 3/30/94, effective 5/4/94]
- [Filed 8/12/94, Notice 6/8/94—published 8/31/94, effective 10/5/94]
- [Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
- [Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
- [Filed 1/25/96, Notice 12/20/95—published 2/14/96, effective 3/20/96]
- [Filed 3/19/96, Notice 12/20/95—published 4/10/96, effective 5/15/96]
- [Filed 7/11/97, Notice 4/9/97—published 7/30/97, effective 9/3/97]
- [Filed 7/24/97, Notice 3/26/97—published 8/13/97, effective 9/17/97]
- [Filed 3/31/98, Notice 11/5/97—published 4/22/98, effective 5/27/98]
- [Filed 5/14/98, Notice 2/25/98—published 6/3/98, effective 7/8/98]
- [Filed 11/12/98, Notice 9/23/98—published 12/2/98, effective 1/6/99]
- [Filed 3/18/99, Notice 2/10/99—published 4/7/99, effective 5/12/99]
- [Filed 5/14/99, Notice 3/10/99—published 6/2/99, effective 7/7/99]
- [Filed 11/12/99, Notice 8/25/99—published 12/1/99, effective 1/5/00]
- [Filed 3/30/00, Notice 2/9/00—published 4/19/00, effective 5/24/00]††

◊Three ARCs  
 ††Two ARCs

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## CHAPTER 13 PERMITS

[Prior to 12/17/86, Revenue Department[730]]

**701—13.1(422) Retail sales tax permit required.** When used in this chapter or any other chapter relating to retail sales, the word “permit” shall mean “a retail sales tax permit.”

A person shall not engage in any Iowa business subject to tax until the person has procured a permit except as provided in 13.5(422). There is no charge for a retail sales tax permit. If a person makes retail sales from more than one location, each location from which taxable sales of tangible personal property or services will occur shall be required to hold a permit. Retail sales tax permits are issued to retailers for the purpose of making retail sales of tangible personal property or taxable services. Persons shall not make application for a permit for any other purpose. For details regarding direct pay permits, see rule 701—12.3(422).

This rule is intended to implement Iowa Code section 422.53 as amended by 1999 Iowa Acts, chapter 152.

**701—13.2(422) Application for permit.** An application for a permanent permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form.

An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner’s name, in the case of a sole ownership by an individual, or the trade name and the name of all partners, in the case of a partnership.

The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners’ names shall appear on the application; and by the president, vice president, treasurer or other principal officer of a corporation or association, unless written authorization is given by the officers for another person to sign the application.

For electronically transmitted applications, the application form shall state that in lieu of a person’s handwritten signature, the E-mail address will constitute a valid signature.

The application shall state the date when the applicant will begin selling tangible personal property or taxable services at retail in Iowa from the location for which the application is made.

This rule is intended to implement Iowa Code sections 421.17(15) and 422.53.

**701—13.3(422) Permit not transferable—sale of business.** Permits shall not be transferable. A permit holder selling the business shall cancel the permit, and the purchaser of the business shall apply for a new permit in the purchaser’s own name.

This rule is intended to implement Iowa Code section 422.53.

**701—13.4(422) Permit—consolidated return optional.** Two types of permit holders have the option of filing a consolidated return. The first is a permit holder with multiple locations from which taxable sales are made and the second is certain affiliated corporations.

**13.4(1) Permit holders with multiple locations.** A permit holder procuring more than one permit may file a separate return for each permit; or, if arrangements have been made with the department, the permit holder may file one consolidated return reporting sales made at all locations for which a permit is held.

**13.4(2) Affiliated corporations.** Any group consisting of a parent and its affiliates, which is entitled to file a consolidated return for federal income tax purposes and which makes retail sales of tangible personal property or taxable enumerated services, may make application to the director for permission to make deposits and file a consolidated Iowa sales tax return. An application for consolidation can be made for any tax period beginning on or after January 1, 2000.

The application shall be in writing and shall be signed by an officer of the parent corporation. It shall contain the business name, address, federal identification number, and Iowa sales tax identification number of every corporation seeking the right to file a consolidated return. The application shall state the initial tax period for which the right to file a consolidated return is sought and shall be filed no later than 90 days prior to the beginning of that period. The application shall also contain any additional relevant information which the director may, in individual instances, require.

A parent corporation and each affiliate corporation that file a consolidated return are jointly and severally liable for all tax, penalty, and interest found due for the tax period for which a consolidated return is filed or required to be filed.

**13.4(3) Requirements common to returns filed under subrules 13.4(1) and 13.4(2).** Taxpayers shall file consolidated returns only on forms provided by the department. All working papers used in the preparation of the information required to complete the returns must be available for examination by the department. Undercollections of sales tax at one or more locations or by one or more affiliates may not be offset by overcollections at other locations or by other affiliates.

This rule is intended to implement Iowa Code section 422.51 as amended by 1999 Iowa Acts, chapter 156, and Iowa Code section 422.53.

**701—13.5(422) Retailers operating a temporary business.** A person not regularly engaged in selling at retail and not having a permanent place of business but is temporarily selling from trucks, portable roadside stands, concessionaires at state, county, district or local fairs, carnivals and the like shall not be required to hold a permit. These retailers shall request an identification card from the department. The card shall be in a form prescribed by the director and shall be completed and displayed by the retailer to show authorization to collect tax. The issuance of the card by the department shall be dependent upon the frequency of sales and other conditions as each individual case may warrant.

This rule is intended to implement Iowa Code section 422.53(6).

**701—13.6(422) Reinstatement of canceled permit.** A person who previously held and canceled a permit and wishes to reengage in business in the same county shall apply to the department for reinstatement of the permit. Upon receipt of the proper clearance for previous tax returns, a new permit shall be issued.

This rule is intended to implement Iowa Code section 422.53.

**701—13.7(422) Reinstatement of revoked permit.** A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions include payment of any tax liability which may be due to the department. See rule 13.17(422) for a description of the circumstances under which nonpayment of taxes may lead to revocation of a permit.

Pursuant to the director's statutory authority in Iowa Code section 422.53(5) to restore licenses after a revocation, the director has determined that upon the revocation of a sales tax permit the initial time, the permit holder will be required to pay all delinquent sales tax liabilities, to file returns, and to post a bond and to refrain from taxable occurrences under Iowa Code section 422.43 as required by the director prior to the reinstatement or issuance of a new sales tax permit.

As set forth above, the director may impose a waiting period during which the permit holder must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 422.58(2), not to exceed 90 days to restore a permit or issue a new permit after a revocation. The department may require a sworn affidavit, subject to the penalties of perjury, stating that the permit holder has fulfilled all requirements of said order of revocation, and stating the dates on which the permit holder refrained from taxable occurrences.

Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a revoked permit or issue a new permit after a revocation unless otherwise noted.

The amount of tax delinquent, the number of filing periods for which a tax remains due and unpaid, and the length of time a tax has been unpaid are the principal, but nonexclusive circumstances, which the department will use to determine whether an applicant is “substantially” or insubstantially delinquent in paying a tax. The department may deny a permit for substantial delinquency. Nonexclusive factors which the department will consider in determining whether substantial delinquency will or will not result in the denial of an application for a permit are the following: whether the delinquency was inadvertent, negligent, or intentional; the amount of tax, interest, or penalty owed in relation to the applicant’s total financial resources; and whether the applicant’s business is likely to survive over the long term if a license or permit is granted. This rule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

The department will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code subsection 422.53(2) and 1995 Iowa Acts, chapter 115.

**701—13.17(422) Substantially delinquent tax—revocation of permit.** The department may revoke a permit if the permit holder has become substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the person holding a permit is a corporation, the department may revoke the permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the permit-holding corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner’s failure to pay a tax which is not a liability of the partnership. This is in contrast to the situation regarding an application for a permit. See rule 13.16(422). Also, see rule 13.16(422) for characterizations of the terms “tax administered by the department” and “substantially delinquent” and for a description of some of the factors which the department will use in determining whether substantial delinquency will or will not result in the revocation of a permit. This rule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code subsection 422.53(5) and 1995 Iowa Acts, chapter 115.

[Filed December 12, 1974]

[Filed 11/5/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]

[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]

[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed 5/7/82, Notice 3/31/82—published 5/26/82, effective 6/30/82]

[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 1/23/87, Notice 12/17/86—published 2/11/87, effective 3/18/87]

[Filed 9/24/93, Notice 8/18/93—published 10/13/93, effective 11/17/93]

[Filed 10/20/95, Notice 9/13/95—published 11/8/95, effective 12/13/95]

[Filed 11/14/97, Notice 10/8/97—published 12/3/97, effective 1/7/98]

[Filed 10/30/98, Notice 9/23/98—published 11/18/98, effective 12/23/98]

[Filed 12/10/99, Notice 11/3/99—published 12/29/99, effective 2/2/00]

[Filed 3/30/00, Notice 2/23/00—published 4/19/00, effective 5/24/00]

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**46.1(3) Voluntary state income tax withholding from unemployment benefit payments.** Effective for unemployment benefit payments made on or after January 1, 1997, that pertain to a new application for benefits made after December 31, 1996, recipients of the benefits may elect to have state income tax withheld from the benefit payments at a rate of 5 percent. An individual's election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

This rule is intended to implement Iowa Code sections 96.3, 99B.21, 99D.16, 99E.19, and 99F.18 and Iowa Code sections 422.7, 422.15, and 422.16 as amended by 1998 Iowa Acts, House File 2513.

**701—46.2(422) Computation of amount withheld.**

**46.2(1) Amount withheld.**

*a. General rules.* Every employer required to deduct and withhold a tax on compensation paid in Iowa to an individual shall deduct and withhold for each payroll period an amount the total of which will approximate the employee's annual tax liability. "Payroll period" for Iowa withholding purposes shall have the same definition as in Section 3401 of the Internal Revenue Code and shall include "miscellaneous payroll period" as that term is defined and used in that section and the regulations thereunder.

*b. Methods of computations.* Employers required to withhold Iowa income tax on compensation paid in this state shall compute the amount of tax to be withheld for each payroll period pursuant to the methods and rules provided herein.

(1) *Tables.* An employer may elect to use the withholding tables provided in the Iowa employers' withholding tax guide and withholding tables, which are available from the department of revenue and finance.

(2) *Formulas.* Formulas are available upon request for employers who have a computerized payroll system.

(3) *Other methods.* An employer may request and be granted the use of an alternate method for computing the amount of Iowa tax to be deducted and withheld for each payroll period so long as the alternate proposal approximates the employee's annual Iowa tax liability. When submitting an alternate formula, the withholding agent should explain the formula and show examples comparing the amount of withholding under the proposed formula with the department's tables or computer formula at various income levels and by using various numbers of personal exemptions. Any alternate formula must be approved by the department prior to its use.

*c. Supplemental wage payments.* An employee's compensation may consist of wages paid for a payroll period and supplemental wages, such as bonuses, commissions, and overtime pay, paid for the same or a different period or without regard to a particular period. When such supplemental wages are paid, the amount of tax required to be withheld shall be determined by using the current withholding tables or formulas. If supplemental wages are paid at the same time as regular wages, the regular tables or formulas are used in determining the amount of tax to be withheld as if the total of the supplemental and regular wages were a single wage payment for the regular payroll period. If supplemental wages are paid at any other time, the regular tables or formulas are used in determining the amount of tax to be withheld as if the supplemental wage were a single wage payment for the regular payroll period. See subrule 46.2(3) for withholding on supplemental wage payments made on or after January 1, 1994.

*d. Vacation pay.* Amounts of so-called "vacation allowances" shall be subject to withholding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the allowance shall be treated as supplemental wage payments. See subrule 46.2(3) for withholding on supplemental wage payments made on or after January 1, 1994.

**46.2(2) Correction of underwithholding or overwithholding.**

*a. Underwithholding.* If an employer erroneously underwithholds an amount of Iowa income tax required to be deducted and withheld from compensation paid to an employee within a payroll period, the employer should correct the error within the same calendar year by deducting the difference between the amount withheld and the amount required to be withheld from any compensation still owed the employee, even though such compensation may not be subject to withholding. If the error is discovered in a subsequent calendar year, no correction shall be made by the employer.

*b. Overwithholding.* If an employer erroneously overwithholds an amount of tax required to be deducted and withheld from compensation paid to an employee, repayment of such overwithheld amount shall be made in the same calendar year. Repayment may be made in either of two ways: (1) the amount of overwithholding may be repaid directly to the employee, in which case the employer must obtain written receipt showing the date and amount of the repayment, or (2) the employer may reimburse the employee by applying the overcollection against the tax required to be deducted and withheld on compensation to be paid in the same calendar year in which the overcollection occurred. If the error is discovered in a subsequent calendar year, no repayment shall be made.

*c. Cross-reference.* For effect on reporting and remitting taxes deducted and withheld when there is an erroneous underpayment or overpayment, see 46.3(3)“h.”

**46.2(3) Withholding on supplemental wage payments.** When a withholding agent makes a payment of supplemental wages to an employee on or after January 1, 1994, and the employer withholds federal income tax on a flat-rate basis, pursuant to Treasury Regulation §31.3402(g)-1, state income tax shall be withheld from the supplemental wages at a rate of 6 percent without consideration for any withholding allowances or exemptions. A supplemental wage payment is the payment of a bonus, commission, overtime pay, or other special payment that is made in addition to the employee's regular wage payment in a payroll period.

This rule is intended to implement Iowa Code section 422.16 as amended by 1994 Iowa Acts, Senate File 2057.

**701—46.3(422) Forms, returns and reports.**

**46.3(1) Employer registration.** Every employer or payer required to deduct and withhold Iowa income tax must register with the department of revenue and finance by filing an “Application for Withholding Agent’s Identification Number.” The application shall indicate the employer’s or payer’s federal identification number. If an employer or payer has not received a federal employer’s identification number, the employer should obtain one before filing the state application. It must then be filed with the department within 15 days of the date the federal employer’s identification number is assigned.

When initial payment of wages subject to Iowa withholding tax occurs late in the calendar quarter, or before the employer’s or payer’s federal employer’s identification number is assigned by the Internal Revenue Service, the application for Iowa withholding agent’s identification number shall be forwarded along with the first quarterly withholding return. The responsible party(ies) shall be listed on the application.

[Filed 12/12/74]

- [Filed 12/10/76, Notice 9/22/76—published 12/29/76, effective 2/2/77]
- [Filed emergency 4/28/78—published 5/17/78, effective 4/28/78]
- [Filed emergency 3/2/79—published 3/21/79, effective 3/2/79]
- [Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
- [Filed 11/20/81, Notice 10/14/81—published 12/9/81, effective 1/13/82]
- [Filed emergency 3/5/82—published 3/31/82, effective 4/1/82]
- [Filed 7/16/82, Notice 6/9/82—published 8/4/82, effective 9/8/82]
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]
- [Filed 10/19/84, Notice 9/12/84—published 11/7/84, effective 12/12/84]
- [Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]
- [Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
- [Filed 3/7/86, Notice 1/29/86—published 3/26/86, effective 4/30/86]
- [Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
- [Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]
- [Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
- [Filed emergency 7/2/87—published 7/29/87, effective 7/2/87]
- [Filed 11/12/87, Notice 7/29/87—published 12/2/87, effective 1/6/88]
- [Filed 3/3/88, Notice 1/27/88—published 3/23/88, effective 4/27/88]
- [Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
- [Filed 1/4/89, Notice 11/30/88—published 1/25/89, effective 3/1/89]
- [Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
- [Filed 11/22/89, Notice 10/18/89—published 12/13/89, effective 1/17/90]
- [Filed 8/30/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]
- [Filed 11/9/90, Notice 10/3/90—published 11/28/90, effective 1/2/91]
- [Filed 1/4/91, Notice 11/28/90—published 1/23/91, effective 2/27/91]
- [Filed 11/20/91, Notice 10/16/91—published 12/11/91, effective 1/15/92]
- [Filed emergency 2/14/92—published 3/4/92, effective 2/14/92]
- [Filed 4/10/92, Notice 3/4/92—published 4/29/92, effective 6/3/92]
- [Filed 10/9/92, Notice 9/2/92—published 10/28/92, effective 12/2/92]
- [Filed 11/20/92, Notice 10/14/92—published 12/9/92, effective 1/13/93]
- [Filed 7/1/93, Notice 5/26/93—published 7/21/93, effective 8/25/93]
- [Filed 9/10/93, Notice 8/4/93—published 9/29/93, effective 11/3/93]
- [Filed 5/20/94, Notice 4/13/94—published 6/8/94, effective 7/13/94]
- [Filed 9/23/94, Notice 8/17/94—published 10/12/94, effective 11/16/94]
- [Filed 2/24/95, Notice 1/4/95—published 3/15/95, effective 4/19/95]
- [Filed 7/14/95, Notice 6/7/95—published 8/2/95, effective 9/6/95]
- [Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
- [Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
- [Filed 5/15/98, Notice 4/8/98—published 6/3/98, effective 7/8/98]
- [Filed 10/2/98, Notice 8/26/98—published 10/21/98, effective 11/25/98]
- [Filed 12/23/99, Notice 11/17/99—published 1/12/00, effective 2/16/00]
- [Filed 3/30/00, Notice 2/23/00—published 4/19/00, effective 5/24/00]





**701—150.12(421) Applicability and procedure.** For liabilities accrued and owing on or after April 17, 1998, to any and all clerks of the Iowa district court, the department shall issue a written notice informing any person that has a valid claim against a state agency that is a liquidated sum, due, owing, and payable and in which such a person is liable for the liability owed to any and all clerks of the Iowa district court that an offset will be performed. The department will perform the offsets for such clerks as provided in Iowa Code section 421.17(29) and the department will send a written notice to the person liable for such a liability prior to and after the offset has been performed. Subsequently, the department will also provide administrative procedures and available remedies for contesting the validity of such an offset. The Iowa district court will provide the procedures and remedies for challenging the underlying liability at issue. This rule applies only to liabilities and debts owed to the clerks of the Iowa district court.

**701—150.13(421) Notice of offset.** The department shall send written notification of the offset to the person that has a valid claim against any state agency that is a liquidated sum, due and payable and in which such a person is liable for a liability owed to any and all clerks of the Iowa district court within ten calendar days from the date the department is notified by the judicial branch of the uncollected liability. This notification must include:

1. The judicial branch's right to the payment in question;
2. The judicial branch's right to recover the payment through this offset procedure;
3. The basis of the judicial branch's case in regard to the debt;
4. The right of the person who owes the liability to request, within 15 days of the mailing of the notice, that the payment between parties be split when the payment in question is jointly owned or otherwise owned by two or more persons;
5. The right of the person liable to contest the right of offset and the validity of such offset with the department by mailing, to the clerk of the hearings section for the department, a protest within 15 days of the mailing of such notice and that the procedure to follow in that appeal will conform, according to the context, to the rules of the department involving protests and contested case proceedings in 701—Chapter 7 of the department's rules of practice and procedure;
6. The agency or division and the telephone number for the person liable for the liability to contact concerning questions regarding the validity of the offset and the procedures for the offset;
7. That the person liable for the liability has the opportunity to contest the validity and amount of the liability by mailing, within 15 days of mailing of the notice of offset, a written application to contest the liability to the appropriate clerk of the Iowa district court; and
8. The clerk of the district court and the telephone number for the person liable for the liability to contact concerning questions relating to the validity of the underlying liability and regarding the validity of the amount owed.

**701—150.14(421) Procedure for contesting.** A person liable for a liability under this subheading may contest the validity or amount of the underlying liability by mailing written notification to the appropriate clerk of the Iowa district court of the person's intent to contest such a liability. The Iowa district court will provide the person liable with the procedure and remedies for contesting the validity and amount of the underlying liability.

A person liable for a liability payable to the judicial branch that has been deemed qualified for offset may contest the validity of the offset or the right of the offset by mailing written notification to the Department of Revenue and Finance, Clerk of the Hearings Section, Hoover State Office Building, Fourth Floor, Des Moines, Iowa 50319. The department will provide the procedure and remedies for contesting the validity of the offset and right of offset pursuant to the applicable contested case rules set forth in 701—Chapter 7.

If a person liable to the judicial department gives written notice of intent to contest either the validity or the amount of the liability or the validity of the offset or right of offset, the judicial department and the department will hold a payment in abeyance until the final disposition of the contested liability or offset.

**701—150.15(421) Postoffset notification and procedure.** Following the offset, the department will notify the person liable that the offset was performed. It is the responsibility of the department to make payment to the person liable to the Iowa district court clerk of any amount to which the Iowa district court clerk is not entitled to receive under the offset, in accordance with established procedures.

**701—150.16(421) Report of satisfaction of obligations.** At least monthly, the department will file with the clerk of the district court a notice of satisfaction of each obligation to the full extent of all monies collected in satisfaction of the obligation. No additional or separate written notice from the department regarding the performed offsets is required.

These rules are intended to implement Iowa Code sections 421.16, 421.17, 422.20 and 422.72.

#### FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS

**701—150.17(421, PL105-206) Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation.** Effective for refunds of overpayments to the Internal Revenue Service (IRS) that are payable beginning January 1, 2000, the IRS may offset, in whole or in part, an amount of federal refund payable to an Iowa resident by the amount of any past due legally enforceable Iowa income tax obligation owed by such taxpayer. The purpose of this rule is to establish a procedure to identify taxpayers that owe Iowa income tax liabilities and to establish a procedure for requesting the offset of the taxpayer's federal tax overpayment to collect a past due legally enforceable Iowa income tax obligation.

**150.17(1) Definitions.** The following definitions are applicable to the federal offset program:

**"Assessment"** means the determination of a past due tax obligation and includes self-assessments. An assessment includes the Iowa income tax, interest, penalties, fees or other charges associated with the past due legally enforceable Iowa income tax obligation.

**"Department," "state of Iowa," "Iowa" or "the state"** means the Iowa department of revenue and finance.

**"Director"** means the director of the Iowa department of revenue and finance.

**"Overpayment"** means a federal tax refund due and owing to a person or persons.

**"Past due legally enforceable Iowa income tax obligation"** means a debt which resulted from a judgment rendered by a court of competent jurisdiction which has determined an amount of state income tax to be due or a determination after an administrative hearing which has determined an amount of state income tax to be due and which is no longer subject to judicial review. In addition, this term also includes a debt which resulted from a state income tax which has been assessed but not collected, the time for redetermination which has expired, and which has not been delinquent for more than ten years.

**"Resident of Iowa"** means any person with a federal overpayment for the year in which Iowa seeks offset and such person has an Iowa address listed on that person's federal return for the tax period of overpayment.

**"Secretary"** means the Secretary of the Treasury for the federal government.

“*State income tax obligation*” or “*Iowa income tax obligation*” is intended to cover all Iowa income taxes. This term includes all local income taxes administered by the Iowa department of revenue and finance or determined to be a “state income tax” under Iowa law. Such taxes may include, but are not limited to, individual income tax, income surtax, fiduciary income tax, withholding tax, or corporate income tax, and penalties, interest, fines, judgments, or court costs relating to such tax obligations.

“*Tax refund offset*” means withholding or reducing, in whole or in part, a federal tax refund payment by an amount necessary to satisfy a past due legally enforceable state income tax obligation owed by the payee (taxpayer) of the tax refund payment. This rule only involves the offset of tax refund payments under 26 U.S.C. 6402(e); it does not cover the offset of federal payments other than tax refund payments for the collection of past due legally enforceable state income tax obligations.

“*Tax refund payment*” means the amount to be refunded to a taxpayer by the federal government after the Internal Revenue Service (IRS) has applied the taxpayer’s overpayment to the taxpayer’s past due tax liabilities in accordance with 26 U.S.C. 6402(a) and 26 CFR 6402-3(a)(6)(i).

**150.17(2) Prerequisites for requesting a federal offset.** The following are the requirements that the state of Iowa must meet before the state can request an offset of a federal overpayment against an Iowa income tax obligation:

a. Pre-offset notice. At least 60 days prior to requesting the offset of a taxpayer’s federal overpayment for an Iowa income tax obligation, the state of Iowa must provide notice by certified mail, return receipt requested, to the person owing the Iowa income tax liability. This notice must state the following information:

(1) That the state proposes to request the offset of the person’s federal overpayment against a specified Iowa income tax obligation and that such an obligation is past due and legally enforceable;

(2) That the authority for this offset is Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998), as implemented by 701 IAC 150.17(421, PL105-206);

(3) That the person owing the obligation has 60 days from the date of the notice to present evidence to the department that all or part of the obligation at issue is not past due or not legally enforceable;

(4) The mailing address for submitting such evidence;

(5) That failure to timely submit the evidence waives the taxpayer’s right to protest the amount, validity or qualification of the Iowa income tax obligation for offset at any time in the future; and

(6) Where contact can be made with the department for additional information or questions.

b. The state must consider any evidence presented by the person owing the obligation and determine whether the amount or amounts are past due and legally enforceable.

c. The state must have made written demand on the taxpayer to obtain payment of the state income tax obligation for which the request for offset is being submitted.

d. Additional pre-offset notices. The department must provide a taxpayer with an additional pre-offset notice if the amount of the obligation to be subject to offset is increased due to a new assessment. However, a new pre-offset notice is not required to be sent to the taxpayer by the department if there is an increase in the amount to be offset due to accrued interest, penalties or other charges associated with an Iowa income tax obligation in which notice has previously been given.

e. Before offset of the federal refund can be requested by the state of Iowa, the person’s Iowa income tax liability must be at least \$25, unless otherwise provided based on the discretion of the department and the Secretary. If an individual owes more than one Iowa income tax obligation, the minimum amount will be applied to the aggregate amounts of such obligations owed to Iowa.

f. Offset applies to residents of Iowa as defined under this rule.

**150.17(3) Procedure after submission of evidence.** Upon timely receipt of evidence by the department from the taxpayer as set forth in 150.17(2)“a”(3), the department has 60 days to review the evidence and notify the taxpayer whether the evidence submitted is sufficient to terminate the intended offset. If the department determines that the evidence is sufficient, the procedure to initiate the federal offset shall be terminated for that obligation and the taxpayer’s record of Iowa income tax obligation for that particular obligation shall be adjusted accordingly. However, if the department determines that the evidence is insufficient to show that the amount or amounts at issue are not, in whole or in part, a past due and legally enforceable income tax obligation, the department must notify the taxpayer within 60 days of receiving the evidence from the taxpayer.

The contest of an offset under this rule is subject to judicial review under Iowa Code section 17A.19 as “other agency action.”

In cases in which a taxpayer claims immunity from state taxation due to being an enrolled member of an Indian tribe who lives on that member’s reservation and derives all of that member’s income from that reservation, Iowa must consider such claims de novo on the merits, unless such claims have been previously adjudicated by a court of competent jurisdiction.

**150.17(4) Notice by Iowa to the Secretary to request federal offset.** Iowa must notify the Secretary of an Iowa income tax obligation in the manner prescribed by the Secretary.

**150.17(5) Erroneous payments to Iowa.** If Iowa receives a notice from the Secretary that an erroneous payment has been made to Iowa under this rule, Iowa must promptly pay to the Secretary, in accordance with such rules and regulations as the Secretary may prescribe, an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to Iowa under this rule have been paid to Iowa). In the alternative, Iowa may return the erroneous payment directly to the taxpayer. If this latter alternative is used by Iowa, then Iowa must notify the Secretary of the erroneous offset being paid to the taxpayer, and the taxpayer’s records will be adjusted accordingly.

**150.17(6) Correcting and updating notice to the Secretary.** Iowa must notify the Secretary of any deletion or decrease in the amount of past due legally enforceable Iowa income tax obligation referred to the Secretary for collection by offset under this rule. Iowa may also notify the Secretary of any increases in the amount or amounts referred to the Secretary for collection by offset under this rule provided that Iowa has complied with the requirements of this rule with regard to such amount or amounts.

This rule is intended to implement Iowa Code chapter 421 and Pub. L. 105-206, 112 Stat. 685, 779 (1998).

[Filed 10/28/88, Notice 8/24/88—published 11/16/88, effective 12/21/88]

[Filed 1/5/90, Notice 11/29/89—published 1/24/90, effective 2/28/90]

[Filed 8/22/97, Notice 7/16/97—published 9/10/97, effective 10/15/97]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 3/30/00, Notice 2/23/00—published 4/19/00, effective 5/24/00]

**RABBIS**

*Generally, see RELIGION*

**RABIES**

Confinement, animals 21—64.23, 64.24

Reports 21—64.17; 641—1.2(1)*a*(1)

Vaccination 21—64.25, 64.34(6), 64.35(3), 65.10, 67.3(3)*d*

**RACING AND GAMING**

*See also GAMBLING*

Administration 491—1.3

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