

*State of Iowa*

# **Iowa Administrative Code Supplement**

Biweekly  
November 29, 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

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

Fax: (515)281-4424

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CHAPTER 1  
DESCRIPTION OF ORGANIZATION  
[Prior to 4/22/87, see Banking Department[140] Ch 1]

**187—1.1(17A,524) Definitions.** The definitions of terms listed in Iowa Code section 17A.2 shall apply for these terms as they are used throughout this chapter. In addition, as used in this chapter:

“*Division*” means the division of banking.

“*Superintendent*” means the superintendent of banking.

**187—1.2(17A,524) Scope and application.** This chapter describes the office of the superintendent; the established place at which, the employees from whom and the methods whereby the public may obtain information, make submittals on requests or obtain decisions; and the forms available or the place at which forms and instructions as to the scope and contents of all papers, reports, or examinations may be obtained.

**187—1.3(17A,524) Division of banking.** The division of banking is a subdivision of the department of commerce and consists of the superintendent and those employees who discharge the duties and responsibilities imposed upon the superintendent by the laws of this state. The superintendent has general control, supervision and regulatory authority over all state-chartered banks, regulated loan companies, industrial loan companies, mortgage bankers, brokers, and registrants, delayed deposit service licensees, persons licensed to engage in the business of debt management and persons licensed to engage in the business of selling written instruments for the transmission or payment of money. The division consists of two separate bureaus. The bank bureau has primary responsibility relating to the supervision, regulation and chartering of state banks. The finance bureau has primary responsibilities relating to the supervision, regulation and licensing of regulated loan companies, industrial loan companies, mortgage bankers, brokers, and registrants, delayed deposit service licensees, persons engaged in the business of selling written instruments, and persons engaged in the business of debt management.

**1.3(1) Organization—superintendent.** The superintendent is the administrator of the division. The superintendent is appointed by the governor, by and with the approval of the senate, for a term of four years. The superintendent’s office is located at 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. The superintendent is assisted by the following officials who are responsible to the superintendent:

*a. Deputy superintendent.* The deputy superintendent performs such duties as the superintendent prescribes, including general supervision of all matters pertaining to the office of the superintendent. During the absence or disability of the superintendent, or as directed by the superintendent, the deputy superintendent possesses the powers and performs the duties of the superintendent.

*b. Assistants.* The superintendent may appoint assistants to perform duties prescribed by the superintendent, including general supervision of all bank examining personnel, administration and supervision of regulatory examinations, and administration and supervision of all matters relating to the exercise of banking powers authorized by the laws of this state.

*c. Bank examination analysts.* Bank examination analysts perform such duties as the superintendent prescribes, including matters relating to the review and analysis of bank examination reports.

*d. Finance bureau chief.* The finance bureau chief performs duties prescribed by the superintendent, including general supervision over all matters relating to the licensing and supervision of regulated loan companies, industrial loan companies, mortgage bankers, brokers, and registrants, delayed deposit service licensees, persons engaged in the business of debt management and persons engaged in the sale of written instruments.

*e. Examiners.* Regulatory examinations are performed by examining personnel situated in examination regions throughout the state. Each region is headed by a supervisor who is assisted by a staff of examiners. Each examiner performs duties prescribed by the superintendent in a manner consistent with the laws of this state and may be predominantly trained in the specialized fields of commercial bank and bank holding company regulation, trust asset administration, finance company and mortgage banking regulation, data processing, and other areas within the jurisdiction of the office of the superintendent.

**1.3(2) Field organization.** Rescinded IAB 10/9/96, effective 11/13/96.

This rule is intended to implement Iowa Code sections 17A.3 and 524.208.

**187—1.4(17A,524) Forms and instructions.**

**1.4(1) Forms.** The following forms and instructions of the superintendent are currently in use:

*a. Bank bureau.*

- (1) Consolidated Report of Condition and Income
- (2) Consolidated Report of Condition (Publisher's Copy)
- (3) List of Shareholders (Bank and Bank Holding Company)
- (4) Oath of Directors (Long Form)
- (5) Oath of Directors (Short Form)
- (6) Certificate of Elections and Appointments
- (7) Stockholders Resolution to Establish the Number of Directors
- (8) Application to Organize a State Bank (including supplemental forms)
- (9) Application to Move Main Office or Bank Office
- (10) Application to Establish a Bank Office
- (11) Application for Renewal of Corporate Existence
- (12) Directors Acknowledgment of Bank Examiners Report
- (13) Application for Change of Control
- (14) Articles of Incorporation
- (15) Statement of Cancellation of Preferred Shares
- (16) Application for Voluntary Dissolution of State Bank (including supplemental forms)
- (17) Application for Approval of a Merger (including supplemental forms)
- (18) Application for Approval of Conversion to State Bank (including supplemental forms)
- (19) Application for Approval of Amendment to Articles of Incorporation (including supplemental forms)
- (20) Application for Approval of Restatement of the Articles of Incorporation (including supplemental forms)

*b. Finance bureau.*

- (1) Application for Regulated Loan License (including supplemental forms)
- (2) Application for Industrial Loan License (including supplemental forms)
- (3) Application for a Mortgage Banker/Broker License (including supplemental forms)
- (4) Application for a Travelers Checks/Money Order License (including supplemental forms)
- (5) Application for a Debt Management License (including supplemental forms)
- (6) Application for a Delayed Deposit Services License (including supplemental forms)

**1.4(2) Reserved.**

This rule is intended to implement Iowa Code section 17A.3.

[Filed 7/1/75—published 7/14/75]

[Filed 4/12/76, Notice 2/9/76—published 5/3/76, effective 6/7/76]

[Filed 3/16/79, Notice 2/7/79—published 4/4/79, effective 5/9/79]

[Filed emergency 8/9/85—published 8/28/85, effective 8/9/85]

[Filed 4/1/87, Notice 2/25/87—published 4/22/87, effective 5/28/87]

[Filed 9/17/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]

[Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]

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CHAPTER 81  
POSTDELIVERY BENEFITS AND CARE

**191—81.1(514C) Purpose.** The purpose of this chapter is to implement Iowa Code section 514C.12, thereby setting forth those requirements deemed appropriate by the commissioner for the general provision of coverage for benefits for postdelivery care.

**191—81.2(514C) Applicability and scope.** This chapter shall apply to all individual or group accident and health insurance, individual or group hospital or health care service contracts issued pursuant to Iowa Code chapter 509, 509A, 514, or 514A, and individual or group health maintenance organization contracts issued and regulated under chapter 514B, which are delivered, amended, or renewed on or after July 1, 1996.

**191—81.3(514C) Postdelivery benefits.** Every person issuing contracts under the scope of this chapter providing maternity benefits, which are not limited to complications of pregnancy, or newborn care benefits, shall not terminate inpatient benefits or require discharge of a mother or the newborn from a hospital following delivery earlier than determined to be medically appropriate by the attending physician after consultation with the mother and in accordance with the Guidelines for Perinatal Care, Third Edition, 1992, by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, which provide that when complications are not present, the postpartum hospital stay ranges from a minimum of 48 hours for a vaginal delivery to a minimum of 96 hours for a Cesarean birth, excluding the day of delivery. In accordance with those guidelines, in the event of a discharge from the hospital prior to the minimum stay established in the guidelines, a postdischarge follow-up visit shall be provided to the mother and newborn by providers competent in postpartum care and newborn assessment if determined medically appropriate as directed by the attending physician. Copies of this publication may be obtained through the Iowa Insurance Division, Lucas State Office Building, Des Moines, Iowa 50319, telephone (515)281-5705.

These rules are intended to implement Iowa Code section 514C.12.

[Filed 12/13/96, Notice 9/25/96—published 1/1/97, effective 4/2/97]

CHAPTERS 82 to 89  
Reserved



**CHAPTER 90**  
**FINANCIAL INFORMATION REGULATION**

**191—90.1(505) Purpose and scope.**

**90.1(1)** This chapter governs the treatment of nonpublic personal financial information about individuals by all licensees of the insurance division.

**90.1(2)** This chapter also applies to nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This chapter does not apply to information about individuals or companies that obtain products or services for business, commercial or agricultural purposes.

**90.1(3)** A licensee domiciled in this state that is in compliance with this chapter shall be deemed to be in compliance with Title V of P.L. 106-102 in a state that has not enacted laws or regulations that meet the requirements of Title V.

**191—90.2(505) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Affiliate”* means any company that controls, is controlled by or is under common control with another company.

*“Clear and conspicuous”* means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

*“Collect”* means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying article assigned to the individual, irrespective of the source of the underlying information.

*“Commissioner”* means the insurance commissioner.

*“Company”* means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

*“Consumer”* means an individual, or that individual’s legal representative, who seeks to obtain, obtains or has obtained from a licensee an insurance product or service that is to be used primarily for personal, family or household purposes and about whom the licensee has nonpublic personal information. Consumer includes any of the following:

1. An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

2. An applicant for insurance prior to the inception of insurance coverage is a licensee’s consumer.

3. An individual is a licensee’s consumer if:

- The individual is a beneficiary of a life insurance policy underwritten by the licensee;

- The individual is a claimant under an insurance policy issued by the licensee;

- The individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

- The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

- The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under rules 90.12(505), 90.13(505) and 90.14(505) of this chapter.

An individual who is a consumer of another financial institution is not a licensee’s consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

An individual is not the consumer of the licensee provided that the licensee provides the initial, annual and revised notices required under rules 90.3(505), 90.4(505), and 90.7(505) to the plan sponsor, group or blanket insurance policyholder or group annuity contract holder, workers' compensation plan participant, or further, provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under rules 90.12(505), 90.13(505) and 90.14(505) and solely due to any of the following:

- a. The consumer is a participant in or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary,
- b. The consumer is covered under a group or blanket insurance policy or group annuity contract issued by the licensee, or
- c. The consumer is a beneficiary in a workers' compensation plan.

However, an individual described in "a" through "c" is a consumer of a licensee if the licensee does not meet all the above conditions. In no event shall an individual solely by virtue of the status described in "a" through "c" above be deemed a customer for purposes of this chapter.

An individual is not a licensee's consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee or because the individual has designated the licensee as trustee for a trust.

"Consumer reporting agency" means "consumer reporting agency" as defined in Section 603(f) of the federal Fair Credit Reporting Act.

"Control" means any of the following:

1. Ownership, control or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;
2. Control in any manner over the election of a majority of the directors, trustees or general partners or individuals exercising similar functions of the company; or
3. The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

"Customer" means a consumer who has a customer relationship with a licensee.

"Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides to the consumer one or more insurance products or services that are to be used primarily for personal, family or household purposes.

A consumer has a continuing relationship with a licensee if the consumer is a current policyholder of an insurance product issued by or through the licensee or if the consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

A consumer does not have a continuing relationship with a licensee under the following examples:

1. The consumer applies for insurance but does not purchase the insurance;
2. The licensee sells the consumer airline travel insurance in an isolated transaction;
3. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;
4. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;
5. The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;
6. The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;
7. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

8. For the purposes of these rules, the individual's last-known address according to the licensee's record is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

*"Designed to call attention"* means a licensee designs to call attention to the nature and significance of the information in a notice if the licensee does the following:

1. Uses a plain-language heading to call attention to the notice;
2. Uses a typeface and type size that are easy to read;
3. Provides wide margins and ample line spacing;
4. Uses boldface or italics for key words; and
5. Is in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

*"Financial institution"* means any institution the business of which is engaging in activities that are financial in nature or incidental to the financial activities described in Section 4(k) of the Bank Holding Company Act of 1956. Financial institution does not include the following:

1. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the commodity futures trading commissioner under the Commodity Exchange Act.
2. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971.
3. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales including sales of servicing rights, or similar transactions related to a transaction of a consumer as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

*"Financial product or service"* means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956. Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

*"Insurance product or service"* means any product or service that is offered by a licensee pursuant to the insurance laws of Iowa. Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

*"Licensee"* means all licensed carriers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the insurance laws of the state or by the department of public health. Licensee shall also include an unauthorized insurer that accepts business placed through a licensed excess lines broker but only in regard to the excess lines placements pursuant to state rules.

*"Nonaffiliated third party"* means any person except a licensee's affiliate or a person employed jointly by a licensee and any company that is not a licensee's affiliate. Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) of the federal Bank Holding Company Act or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act.

*"Nonpublic personal information"* or *"nonpublic personal financial information"* means personally identifiable financial information and any list, description or other groupings of consumers and publicly available information pertaining to them that is derived using any personally identifiable financial information that is not publicly available.

Nonpublic personal financial information does not include health information, publicly available information, except as included on a list as described above or any list or description pertaining to consumers that is derived without using any personally identifiable financial information that is not publicly available.

“Opt out” means a direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a nonaffiliated third party other than as permitted by rules 90.12(505), 90.13(505), and 90.14(505).

“Personally identifiable financial information” means any information a consumer provides to a licensee to obtain an insurance product or service from the licensee, information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer or information the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

Personally identifiable financial information does not include health information, a list of names and addresses of customers of an entity that is not a financial institution and information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, and addresses.

“Publicly available information” means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records, widely distributed media sources or disclosures to the general public that are required to be made by federal, state or local law.

“Reasonably understandable” means the licensee’s notice is presented in the following form:

1. Using clear, concise sentences, paragraphs, and sections;
2. Using short explanatory sentences or bullet lists whenever possible;
3. Uses definite, concrete, plain language and active voice whenever possible;
4. Avoids multiple negatives;
5. Avoids legal or highly technical business terminology whenever possible; and
6. Avoids explanations that are imprecise and readily subject to different interpretations.

**191—90.3(505) Initial privacy notice to consumers required.**

**90.3(1)** A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to the following persons and at the following times:

- a. An individual who becomes the licensee’s customer, not later than when the licensee establishes a customer relationship, except as provided in subrule 90.3(5); and
- b. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by rules 90.13(505) and 90.14(505).

**90.3(2)** A licensee is not required to provide an initial notice to a consumer under subrule 90.3(1) if:

- a. The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party other than as authorized by rules 90.13(505) and 90.14(505) and the licensee does not have a customer relationship with the consumer; or
- b. A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

**90.3(3)** A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

**90.3(4)** When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subrule 90.3(1) as follows:

*a.* The licensee provides a revised policy notice under rule 90.7(505) that covers the customer's new insurance product or service; or

*b.* If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under subrule 90.3(1).

**90.3(5)** A licensee may provide the initial notice required by paragraph 90.3(1) "a" within a reasonable time after the licensee establishes a customer relationship if:

*a.* Establishing the customer relationship is not at the customer's election; or

*b.* Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

**90.3(6)** When a licensee is required by this rule to deliver an initial privacy notice, the licensee shall deliver it according to rule 90.8(505). If the licensee uses a short-form initial notice for noncustomers according to subrule 90.5(6), the licensee may deliver its privacy notice according to subrule 90.5(6).

#### **191—90.4(505) Annual privacy notice to customers required.**

**90.4(1)** A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. "Annually" means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the 12 consecutive month period, but the licensee shall apply it to the customer on a consistent basis.

**90.4(2)** A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

**90.4(3)** When a licensee is required by this rule to deliver an annual privacy notice, the licensee shall deliver it according to rule 90.8(505).

#### **191—90.5(505) Information to be included in privacy notices.**

**90.5(1)** The initial annual and revised privacy notices that a licensee provides under rules 90.3(505), 90.4(505) and 90.7(505) shall include each of the following items of information in addition to any other information the licensee wants to provide and that apply to the licensee and to the consumers to whom the licensee sends its privacy notice:

*a.* The categories of nonpublic personal financial information that the licensee collects;

*b.* The categories of nonpublic personal financial information that the licensee discloses;

*c.* The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under rules 90.13(505) and 90.14(505);

*d.* The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under rules 90.13(505) and 90.14(505);

*e.* A separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted if a licensee discloses nonpublic personal financial information to a nonaffiliated third party under rule 90.12(505) and no other exception in rules 90.13(505) and 90.14(505) applies to that disclosure;

*f.* An explanation of the consumer's right under subrule 90.9(1) to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

*g.* Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act;

*h.* The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information; and

*i.* Any disclosure that the licensee makes under subrule 90.5(2).

**90.5(2)** If a licensee discloses nonpublic personal financial information as authorized under rules 90.13(505) and 90.14(505), the licensee is not required to list those exceptions in the initial or annual privacy notices required by rules 90.3(505) and 90.4(505). When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable and permitted by law.

**90.5(3)** If a licensee discloses nonpublic personal financial information under the exception in rule 90.12(505) to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of paragraph 90.5(1)"e" if it does the following:

*a.* Lists the categories of nonpublic personal financial information it discloses using the same categories and examples the licensee used to meet the requirements of paragraph 90.5(1)"b" as applicable; and

*b.* States whether the third party is a service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution or a financial institution with whom the licensee has a joint marketing agreement.

**90.5(4)** If a licensee does not disclose and does not wish to reserve the right to disclose nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under rules 90.13(505) and 90.14(505), the licensee may simply state that fact, in addition to the information it shall provide under paragraphs 90.5(1)"a," "h," and "i" and subrule 90.5(2).

**90.5(5)** A licensee shall describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

*a.* Describes in general terms who is authorized to have access to the information; and

*b.* States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

**90.5(6)** A licensee may satisfy the initial notice requirements in 90.3(1)"b" and 90.6(3) for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt-out notice as required in rule 90.6(505).

*a.* The short-form initial notice shall be clear and conspicuous, state that the licensee's privacy notice is available upon request and explain a reasonable means by which the consumer may obtain that notice.

*b.* The licensee shall deliver its short-form initial notice according to rule 90.8(505). The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to rule 90.8(505).

**90.5(7)** The licensee's notice may include categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future but does not currently disclose and categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.



**191—90.6(505) Form of opt-out notice to consumers and opt-out methods.**

**90.6(1)** A licensee required to provide an opt-out notice under subrule 90.9(1) shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that rule. The notice shall state the following:

- a. The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;
- b. The consumer has the right to opt out of that disclosure; and
- c. A reasonable means by which the consumer may exercise the opt-out right.

**90.6(2)** A licensee may provide the opt-out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with rule 90.3(505).

**90.6(3)** If a licensee provides the opt-out notice later than required for the initial notice in accordance with rule 90.3(505), the licensee shall also include in writing or, if the consumer agrees, electronically a copy of the initial notice with the opt-out notice.

**90.6(4)** If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt-out notice. The licensee's opt-out notice shall explain how the licensee will treat an opt-out direction by a joint consumer.

a. Any of the joint consumers may exercise the right to opt out. The licensee may do either of the following:

(1) Treat an opt-out direction by a joint consumer as applying to all of the associated joint consumers; or

(2) Permit each joint consumer to opt out separately.

b. The licensee shall permit one of the joint consumers to opt out on behalf of all the joint consumers if a licensee permits each joint consumer to opt out separately.

c. A licensee may not require all joint consumers to opt out before it implements any opt-out direction.

**90.6(5)** A licensee shall comply with a consumer's opt-out direction as soon as reasonably practicable after the licensee receives it.

**90.6(6)** A consumer may exercise the right to opt out at any time.

**90.6(7)** A consumer's direction to opt out under this rule is effective until the consumer revokes it in writing or electronically, if the consumer agrees to revoke electronically.

**90.6(8)** When a customer relationship terminates, the customer's opt-out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt-out direction that applied to the former relationship does not apply to the new relationship.

**90.6(9)** When a licensee is required to deliver an opt-out notice by this rule, the licensee shall deliver it according to rule 90.8(505).

**191—90.7(505) Revised privacy notices.**

**90.7(1)** Except as otherwise authorized in this rule, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under rule 90.3(505) unless the following occur:

a. The licensee has provided to the consumer a clear and conspicuous revised privacy notice that accurately describes its policies and practices;

b. The licensee has provided to the consumer a new opt-out notice;

c. The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

d. The consumer does not opt out.

**90.7(2)** A revised privacy notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

**90.7(3)** When a licensee is required to deliver a revised privacy notice by this rule, the licensee shall deliver it according to rule 90.8(505).

**191—90.8(505) Delivery of notice.**

**90.8(1)** A licensee shall provide any notices that these rules require so that each consumer can reasonably be expected to receive actual notice in writing, or if the consumer agrees, electronically.

**90.8(2)** A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if one of the following occurs:

*a.* The customer uses the licensee's Web site to access insurance products and services electronically and agrees to receive notices at the Web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the Web site; or

*b.* The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

**90.8(3)** A licensee may not provide any notice required by this rule solely by orally explaining the notice, either in person or over the telephone.

**90.8(4)** For customers only, a licensee shall provide the initial notice required by paragraph 90.3(1) "a," the annual notice required by subrule 90.4(1) and the revised notice required by rule 90.7(505) so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

**90.8(5)** A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee may also provide a notice on behalf of another financial institution.

**90.8(6)** If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of subrules 90.3(1), 90.4(1) and 90.7(1), respectively, by providing one notice to those consumers jointly.

**191—90.9(505) Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties.**

**90.9(1)** A licensee may not directly or through any affiliate disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party except as otherwise authorized in these rules unless the following occur:

*a.* The licensee has provided to the consumer an initial notice as required under rule 90.3(505).

*b.* The licensee has provided to the consumer an opt-out notice as required in rule 90.6(505).

*c.* The licensee has given the consumer a reasonable opportunity to opt out of the disclosure before the licensee discloses the information to the nonaffiliated third party; and

*d.* The consumer does not opt out.

**90.9(2)** A licensee provides a consumer with a reasonable opportunity to opt out under the following methods:

*a.* The licensee mails the notices required in 90.9(1) to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within 30 days from the date the licensee mailed the notices.

*b.* A customer opens an on-line account with a licensee and agrees to receive the notices required in 90.9(1) electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

c. For an isolated transaction such as providing the customer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notice required in 90.9(1) at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

**90.9(3)** A licensee shall comply with this rule regardless of whether the licensee and the consumer have established a customer relationship.

**90.9(4)** Unless a licensee complies with this rule, the licensee may not directly or through any affiliate disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

**90.9(5)** A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

**191—90.10(505) Limits on redisclosure and reuse of nonpublic personal financial information.**

**90.10(1)** In the event a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception to rules 90.13(505) and 90.14(505), the licensee's disclosure and use of that information is limited as follows:

a. The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

b. The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

c. The licensee may disclose and use the information pursuant to an exception in rule 90.13(505) or 90.14(505) in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

**90.10(2)** In the event a licensee received nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in rules 90.13(505) and 90.14(505), the licensee may disclose the information only as follows:

a. To the affiliates of the financial institution from which the licensee received the information;

b. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

c. To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

**90.10(3)** In the event a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in rules 90.13(505) and 90.14(505), the third party may disclose and use that information only as follows:

a. The third party may disclose the information to the licensee's affiliates;

b. The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

c. The third party may disclose and use the information pursuant to an exception in rules 90.13(505) and 90.14(505) in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

**90.10(4)** In the event a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in rules 90.13(505) and 90.14(505), the third party may disclose the information only to the following:

- a. The licensee's affiliates;
- b. The third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and
- c. Any other person, if the disclosure would be lawful if the licensee made it directly to that person.

**191—90.11(505) Limits on sharing account number information for marketing purposes.**

**90.11(1)** A licensee shall not directly or through an affiliate disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct-mail marketing or marketing through electronic mail to the consumer.

**90.11(2)** The above subrule does not apply if a licensee discloses a policy number or similar form of access number or access code to any of the following:

- a. A licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;
- b. A licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or
- c. A participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

**191—90.12(505) Exception to opt-out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.**

**90.12(1)** The opt-out requirements in rules 90.6(505) and 90.9(505) do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions for the licensee on the licensee's behalf, if the licensee does the following:

- a. Provides the initial notice in accordance with rule 90.3(505); and
- b. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in rules 90.13(505) and 90.14(505) in the ordinary course of business to carry out those purposes.

**90.12(2)** The services a nonaffiliated third party performs for a licensee under subrule 90.12(1) may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

**90.12(3)** For purposes of this rule, "joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

**191—90.13(505) Exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.**

**90.13(1)** The requirements for initial notice in paragraph 90.3(1)"b," for the opt out in rules 90.6(505) and 90.9(505), and for service providers and joint marketing in rule 90.12(505) do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with the following:

- a. Servicing or processing an insurance product or service that a consumer requests or authorizes;
- b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private-label credit card program or other extension of credit on behalf of such entity;
- c. A proposed or actual securitization, secondary market sale including sales of servicing rights, or similar transaction related to a transaction of the consumer; or
- d. Reinsurance or stop loss or excess loss insurance.

**90.13(2)** For purposes of this rule, “necessary to effect, administer or enforce a transaction” means that the disclosure is as follows:

*a.* Required, or is one of the lawful or appropriate methods, to enforce the licensee’s rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

*b.* Required, or is a usual, appropriate or acceptable method, for the following transactions:

(1) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer’s account in the ordinary course of providing the insurance product or service;

(2) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(3) To provide a confirmation, statement or other record of the transaction or information on the status or value of the insurance product or service to the consumer or the consumer’s agent or broker;

(4) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

(5) To underwrite insurance at the consumer’s request or for any of the following purposes as they relate to a consumer’s insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits including utilization review activities, participating in research projects or as otherwise required or specifically permitted by federal or state law; or

(6) To disclose in connection with the following:

1. The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

2. The transfer of receivables, accounts or interests therein; or

3. The audit of debit, credit or other payment information.

**191—90.14(505) Other exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information.**

**90.14(1)** The requirements for initial notice to consumers in paragraph 90.3(1)“*b*,” for the opt out in rules 90.6(505) and 90.9(505), and for service providers and joint marketing in rule 90.12(505) do not apply when a licensee discloses nonpublic personal financial information as follows:

*a.* With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

*b.* To protect the confidentiality or security of a licensee’s records pertaining to the consumer, service, product, or transaction;

*c.* To protect against or prevent actual or potential fraud or unauthorized transactions;

*d.* For required institutional risk control or for resolving consumer disputes or inquiries;

*e.* To persons holding a legal or beneficial interest relating to the consumer;

*f.* To persons acting in a fiduciary or representative capacity on behalf of the consumer;

*g.* To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee’s compliance with industry standards, and the licensee’s attorneys, accountants and auditors;

*h.* To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978, to law enforcement agencies including the Federal Reserve Board; Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation; Office of Thrift Supervision; National Credit Union Administration; the Securities and Exchange Commission; the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II, and 12 U.S.C. Chapter 21, a state insurance authority, and the Federal Trade Commission, selfregulatory organizations or for an investigation on a matter related to public safety;

- i.* To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act;
- j.* From a consumer report reported by a consumer reporting agency;
- k.* In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business unit;
  - l.* To comply with federal, state, or local laws, rules and other applicable legal requirements;
  - m.* To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;
  - n.* To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law;
    - o.* For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

**90.14(2)** A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal financial information as permitted under subrule 90.6(6).

**191—90.15(505) Notice through a Web site.** If a licensee provides a notice on a Web site, the licensee shall comply with the above requirements if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the Web site such as text, graphics, hyperlinks or sound do not distract attention from the notice. In addition, the licensee shall either place the notice on a screen that consumers frequently access, such as a page on which transactions are conducted, or place a link on a screen that consumers frequently access that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

**191—90.16(505) Licensee exception to notice requirement.**

**90.16(1)** A licensee is not subject to the notice and opt-out requirements for nonpublic personal financial information as follows:

- a.* The licensee is an employee, agent or other representative of another licensee; and
- b.* The other licensee otherwise complies with, and provides the notices required by, the provisions of the rules and the licensee does not disclose any nonpublic personal financial information to any person other than the other licensee or its affiliates in a manner permitted by these rules.

**90.16(2)** An excess lines broker or excess lines insurer shall be deemed to be in compliance with the notice and opt-out requirements for nonpublic personal financial information in these rules provided the following:

- a.* The broker or insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose including joint servicing or marketing under rule 90.12(505) except as permitted by rule 90.13(505) or 90.14(505); and
- b.* The broker or insurer delivers to the consumer at the time a customer relationship is established a notice on which the following is printed in 16-point type:

PRIVACY NOTICE

NEITHER THE U.S. BROKER THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

**191—90.17(505) Protection of Fair Credit Reporting Act.** Nothing in these rules shall be construed to modify, limit or supersede the operations of the federal Fair Credit Reporting Act, and no inference shall be drawn on the basis of the provisions of these rules regarding whether information is transaction or experience information under Section 603 of that Act.

**191—90.18(505) Nondiscrimination.** A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of the consumer's or customer's nonpublic personal financial information pursuant to the provisions of this chapter.

**191—90.19(505) Severability.** If any rule or portion of a rule of this chapter or its applicability to any person or circumstance is held invalid by a court, the remainder of the rules or the applicability of the provision to other persons or circumstances shall not be affected.

**191—90.20(505) Penalties.** An insurer or producer or licensee that violates a requirement of these rules shall be found to have committed a violation of Iowa Code section 507B.4 in addition to any other penalties provided by the laws of this state.

**191—90.21(505) Effective dates.**

**90.21(1)** These rules became effective November 13, 2000. However, in order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of these rules, the commissioner extends the time for compliance until July 1, 2001.

**90.21(2)** A licensee shall provide by July 1, 2001, an initial notice as required by rule 90.3(505) to consumers who are the licensee's customers on July 1, 2001.

**90.21(3)** Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of paragraph 90.12(1)"a," even if the contract does not include a requirement that the third party maintain confidentiality of nonpublic personal financial information, provided that the licensee entered into the agreement on or before July 1, 2001.

These rules are intended to implement 2000 Iowa Acts, chapter 1023, section 5, and P.L. 106-102. [Filed emergency 11/9/00—published 11/29/00, effective 11/13/00]

CHAPTERS 91 to 99  
Reserved

CHAPTER 100  
COMMUNITY HEALTH MANAGEMENT INFORMATION SYSTEM  
Rescinded IAB 5/3/00, effective 6/7/00

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CHAPTER 9  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The Iowa real estate appraiser examining board hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

**193F—9.1(17A,22) Definitions.** As used in this chapter:

"Agency." In lieu of the words "(agency issuing these rules)", insert "Iowa real estate appraiser examining board".

"Custodian." In lieu of the words "means the agency", insert "means the Iowa real estate appraiser examining board".

**193F—9.3(17A,22) Requests for access to records.**

**9.3(1) Location of record.** In lieu of the words "(insert agency head)", insert "Iowa real estate appraiser examining board". In lieu of the words "(insert agency name and address)", insert "the Iowa Real Estate Appraiser Examining Board, 1918 S.E. Hulsizer, Ankeny, Iowa 50021".

**9.3(2) Office hours.** In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m. Monday through Friday".

**9.3(7) Fees.**

c. *Supervisory fee.* In lieu of the words "(specify time period)", insert "one-half hour".

**193F—9.7(17A,22) Consent to disclosure by the subject of a confidential record.** Add at the end of the sentence "This rule does not allow the subject of a record which is confidential under Iowa Code section 272C.6(4) to consent to its release."

**193F—9.9(17A,22) Disclosures without the consent of the subject.**

**9.9(1)** Open records are routinely disclosed without the consent of the subject.

**9.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 193F—9.10(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

**9.9(3)** Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying registrants or applicants subject to enforcement under Iowa Code Supplement chapter 252J or 598.

**193F—9.10(17A,22) Routine use.** “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22. To the extent allowed by law, the following uses are considered routine uses of all board records.

**9.10(1)** Disclosure to those officers, employees, and agents of the board who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

**9.10(2)** Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

**9.10(3)** Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the board.

**9.10(4)** Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

**9.10(5)** Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

**9.10(6)** Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**9.10(7)** Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlement filed in licensee disciplinary proceedings.

**9.10(8)** Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was open or closed.

**9.10(9)** Name and address of registrants, date of registration, and status of registration are routinely disclosed to the public upon request.

**9.10(10)** Name and certificate or license numbers of certified appraisers, licensed appraisers or associate appraisers.

**193F—9.11(17A,22) Consensual disclosure of confidential records.**

**9.11(1)** *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to board disclosure of confidential records as provided in rule 193F—9.7(17A,22).

**9.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the board may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**193F—9.12(17A,22) Release to subject.**

**9.12(1)** The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 9.3(17A,22). However, the agency need not release the following records to the subject:

*a.* The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

*b.* Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

- c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))
- d. All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline is required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding.
- e. Confidential personnel records of registrants and examination candidates. (Iowa Code section 22.7(11))
- f. As otherwise authorized by law.

**9.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

**193F—9.13(17A,22,11) Availability of records.**

**9.13(1) General.** Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**9.13(2) Confidential records.** The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

- a. Personal related information in confidential personnel records of certified appraisers, licensed appraisers or associate appraisers. (Iowa Code section 22.7(11))
- b. Personal related information in confidential personnel records of applicants for examination. (Iowa Code section 22.7(11))
- c. All information in complaint and investigation files maintained by the board for purposes of licensee discipline is confidential in accordance with Iowa Code section 272C.6(4), except that the information may be released to the licensee once a licensee disciplinary proceeding has been initiated by the filing of formal charges and a notice of hearing.
- d. The record of a disciplinary hearing which is closed to the public pursuant to Iowa Code section 272C.6(1) is confidential under Iowa Code section 21.5(4). However, in the event a record is transmitted to the district court pursuant to Iowa Code section 17A.19(6) for purposes of judicial review, the record shall not be considered confidential unless the district court so orders.
- e. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.
- f. Criminal history or prior misconduct of an applicant for licensure.
- g. Information relating to the contents of an examination for licensure.
- h. Minutes of closed meetings of the board. (Iowa Code section 21.5(4))
- i. Information or records received from a restricted source and any other information or records made confidential by law.

**9.13(3) Authority to release confidential records.** The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 9.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 9.4(3).

**193F—9.14(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 9.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information. All records are stored on paper only unless otherwise indicated. The record systems maintained by the agency are:

**9.14(1)** Information in complaint and investigation files maintained by the board for purposes of licensee discipline. This information is required to be kept confidential pursuant to Iowa Code section 272C.6(4). However, it may be released to the licensee once a disciplinary proceeding is commenced by the filing of formal charges and the notice of hearing.

**9.14(2)** Information on nonlicensee investigation files maintained by the board. This information is a public record except to the extent that certain information may be exempt from disclosure under Iowa Code section 22.7 or other provision of law.

**9.14(3)** The following information regarding licensee disciplinary proceedings:

a. Formal charges and notices of hearing.  
b. Complete records of open disciplinary hearings. If a hearing is closed pursuant to Iowa Code section 272C.6(1), the record is confidential under Iowa Code section 21.5(4).

c. Final written decisions imposing sanctions, including informal stipulations and settlements.

**9.14(4)** Registration. Records pertaining to registration by examination may include:

a. Transcripts from universities, colleges and high schools.  
b. Application for examination.  
c. Past felony record.  
d. Examination scores.

This information is stored in a data processing system as well as on paper.

**9.14(5)** In addition to the above records, records pertaining to registration by reciprocity may include:

a. Disciplinary actions taken by other boards of appraisals.  
b. Verification of licensure by another board of appraisals.

**9.14(6)** Partnership and corporation registrations and renewals.

**9.14(7)** Registration by renewal or reinstatement. Records are stored on paper and in a data processing system that permits the comparison of personally identifiable information in one record system with personally identifiable information in another system.

a. Renewal forms.  
b. Continuing education records.

**193F—9.15(17A,22) Other groups of records.** This rule describes groups of records maintained by the agency other than record systems as defined in rule 9.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information. In addition, the records listed in subrules 9.15(1) to 9.15(6) may contain information about individuals. All records are stored both on paper and in automated data processing systems unless otherwise noted.

**9.15(1) Rule making.** Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

**9.15(2) Board records.** Agendas, minutes, and materials presented to the board members in preparation for board meetings are available from the office of the board, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

**9.15(3) Publications.** News releases, annual reports, project reports, and agency newsletters, for example, are available from the office of the board. Information concerning examinations and registration is available from the board office. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not stored on an automated data processing system.

**9.15(4) Appeal decisions and advisory opinions.** All final orders, decisions and opinions are open to the public except for information that is confidential according to paragraphs 9.13(2) "c" and "d."

**9.15(5) Policy manuals.** The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in the office of the agency. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the board's office.

**9.15(6)** All other records that are not exempted from disclosure by law.

**193F—9.16(17A,22) Data processing systems.** All data processing systems used by the board permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

These rules are intended to implement Iowa Code section 22.11.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]



**CHAPTER 10  
FEES**

**193F—10.1(543D) Required fees.** The following fee schedule has been adopted by the board for the certified general, certified residential real property appraiser and the associate real estate appraiser:

- |  |       |
|--|-------|
| 1. Initial examination application fee   | \$100 |
| 2. Examination fee   | 95    |
| 3. Reexamination fee   | 95    |
| 4. Biennial registration fee   |       |
| • General real property appraiser  | 260   |
| • Residential real property appraiser  | 260   |
| • Associate real estate appraiser  | 150   |
| 5. Reciprocal application fee  | 50    |
| 6. Reciprocal registration fee   | 250   |
| 7. Reinstatement fee   | 100   |
| 8. Reissuance of a certificate or license or replacement of a lost, destroyed or stolen certificate or license | 50    |

**193F—10.2(543D) Prorating of registration fees.** Applicants applying for initial registration that is 12 months or less from their required renewal date, as per rule 4.2(543D), shall pay half the required fee. Applicants applying for initial registration that is more than 12 months from their required renewal date shall pay the full registration fee.

**193F—10.3(543D) Federal roster fee.** The board shall collect and transmit to the Federal Financial Institutions Examination Council, on an annual basis, a roster of individuals who have received a state license or certification as a real property appraiser and a registry fee of \$25 for each individual listed on the roster. The registry fee is included in the registration fee.

These rules are intended to implement Iowa Code chapter 543D.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 11/9/00, Notice 8/23/00—published 11/29/00, effective 1/3/01]

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89.3(249F)	Exceptions	93.129(239B)	Nonparticipation by volunteers
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93.106(239B)	Orientation for PROMISE JOBS and the FIA	93.148(239B)	Records maintenance
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93.108(239B)	Self-initiated training	93.150(239B)	Financial
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CHAPTER 52  
PAYMENT

[Prior to 7/1/83, Social Services[770] Ch 52]  
[Prior to 2/11/87, Human Services[498]]

**441—52.1(249) Assistance standards.** Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted.

**52.1(1) Protective living arrangement.** The following assistance standards have been established for state supplementary assistance for persons living in a protective living arrangement:

Family life home certified under rules in 441—Chapter 111.

\$521.20	care allowance
73.00	personal allowance
<hr/>	
\$594.20	Total

**52.1(2) Dependent relative.** The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a.	Aged or disabled client and a dependent relative	\$769
b.	Aged or disabled client, eligible spouse, and a dependent relative	\$1026
c.	Blind client and a dependent relative	\$791
d.	Blind client, aged or disabled spouse, and a dependent relative	\$1048
e.	Blind client, blind spouse, and a dependent relative	\$1070

**52.1(3) Residential care.** Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.50 or on a cost-related reimbursement system with a maximum reimbursement per diem rate of \$24.50. A cost-related per diem rate shall be established for each facility choosing this method of payment according to rule 441—54.3(249).

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

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

- (1) When income is earned, impairment related work expenses, as defined by SSI plus \$65 plus one-half of any remaining earned income.
- (2) Effective January 1, 2000, a \$73 allowance to meet personal expenses and Medicaid copayment expenses.
- (3) When there is a spouse at home, the amount of the SSI benefit for an individual minus the spouse's countable income according to SSI policies. When the spouse at home has been determined eligible for SSI benefits, no income disregard shall be made.
- (4) When there is a dependent child living with the spouse at home who meets the definition of a dependent according to the SSI program, the amount of the SSI allowance for a dependent minus the dependent's countable income and the amount of income from the parent at home that exceeds the SSI benefit for one according to SSI policies.

(5) Established unmet medical needs of the resident, excluding private health insurance premiums and Medicaid copayment expenses. Unmet medical needs of the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall be an additional deduction when the countable income of the spouse at home is not sufficient to cover those expenses. Unmet medical needs of the dependent living with the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall also be deducted when the countable income of the dependent and the income of the parent at home that exceeds the SSI benefit for one is not sufficient to cover the expenses.

(6) The income of recipients of state supplementary assistance or Medicaid needed to pay the cost of care in another residential care facility, a family life home, an in-home health-related care provider, a home- and community-based waiver setting, or a medical institution is not available to apply to the cost of care. The income of a resident who lived at home in the month of entry shall not be applied to the cost of care except to the extent the income exceeds the SSI benefit for one person or for a married couple if the resident also had a spouse living in the home in the month of entry.

b. Payment is made for only the days the recipient is a resident of the facility. Payment shall be made for the date of entry into the facility, but not the date of death or discharge.

c. Payment shall be made in the form of a grant to the recipient on a post payment basis.

d. Payment shall not be made when income is sufficient to pay the cost of care in a month with less than 31 days, but the recipient shall remain eligible for all other benefits of the program.

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provides signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence which exceeds the 30-day annual limit. This information shall be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, Form AA-4166-0, to the county office of the department to terminate the state supplementary assistance payment.

A family member may contribute to the cost of care for a resident subject to supplementation provisions at rule 441—51.2(249) and any contributions shall be reported to the county office of the department by the facility.

f. Payment will be made for a period not to exceed 20 days in any calendar month when the resident is absent due to hospitalization. A resident may not start state supplementary assistance on reserve bed days.

g. The per diem rate established for recipients of state supplementary assistance shall not exceed the average rate established by the facility for private pay residents.

(1) Residents placed in a facility by another governmental agency are not considered private paying individuals. Payments received by the facility from such an agency shall not be included in determining the average rate for private paying residents.

(2) To compute the facilitywide average rate for private paying residents, the facility shall accumulate total monthly charges for those individuals over a six-month period and divide by the total patient days care provided to this group during the same period of time.

**52.1(4) *Blind.*** The standard for a blind recipient not receiving another type of state supplementary assistance is \$22 per month.

**52.1(5) *In-home, health-related care.*** Payment to a person receiving in-home, health-related care shall be made in accordance with rules in 441—Chapter 177.

**52.1(6) Minimum income level cases.** The income level of those persons receiving old age assistance, aid to the blind, and aid to the disabled in December 1973 shall be maintained at the December 1973 level as long as the recipient's circumstances remain unchanged and that income level is above current standards. In determining the continuing eligibility for the minimum income level, the income limits, resource limits, and exclusions which were in effect in October 1972 shall be utilized.

This rule is intended to implement Iowa Code sections 234.6, 234.38, 249.2, 249.3, 249.4, and 249A.4.

- [Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]
- [Filed emergency 6/9/76—published 6/28/76, effective 7/1/76]
- [Filed emergency 7/29/76—published 8/23/76, effective 9/1/76]
- [Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
- [Filed 12/17/76, Notice 11/3/76—published 1/12/77, effective 3/1/77]
- [Filed emergency 5/24/77—published 6/15/77, effective 7/1/77]
- [Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]
- [Filed emergency 5/8/78—published 5/31/78, effective 5/24/78]
- [Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]
- [Filed 7/17/78, Notice 5/31/78—published 8/9/78, effective 9/13/78]
- [Filed 11/7/78, Notice 4/19/78—published 11/29/78, effective 1/3/79]
- [Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]
- [Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]
- [Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]
- [Filed 2/26/82, Notice 10/28/81—published 3/17/82, effective 5/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]
- [Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]
- [Filed 2/25/83, Notice 1/5/83—published 3/16/83, effective 5/1/83]
- [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
- [Filed emergency 10/7/83—published 10/26/83, effective 11/1/83]
- [Filed without Notice 10/7/83—published 10/26/83, effective 12/1/83]
- [Filed emergency 11/18/83, after Notice 10/12/83—published 12/7/83, effective 1/1/84]
- [Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
- [Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
- [Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]
- [Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
- [Filed emergency after Notice 6/14/85, Notice 5/8/85—published 7/3/85, effective 8/1/85]
- [Filed emergency 10/1/85—published 10/23/85, effective 11/1/85]
- [Filed without Notice 10/1/85—published 10/23/85, effective 12/1/85]
- [Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]
- [Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 2/1/86]
- [Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
- [Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]
- [Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
- [Filed emergency 12/8/88—published 12/28/88, effective 1/1/89]
- [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
- [Filed emergency 11/16/89—published 12/13/89, effective 1/1/90]

- [Filed 2/16/90, Notice 12/13/89—published 3/7/90, effective 5/1/90]
- [Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
- [Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
- [Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
- [Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
- [Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
- [Filed 4/11/91, Notice 3/6/91—published 5/1/91, effective 7/1/91]
- [Filed 9/18/91, Notice 7/24/91—published 10/16/91, effective 12/1/91]
- [Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
- [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]\*
- [Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
- [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed 4/16/92, Notice 1/8/92—published 5/13/92, effective 7/1/92]
- [Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]
- [Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]
- [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed 12/16/93, Notice 10/27/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notice 1/5/94—published 3/2/94, effective 5/1/94]
- [Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
- [Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
- [Filed emergency 10/12/94—published 11/9/94, effective 11/1/94]
- [Filed emergency 12/15/94—published 1/4/95, effective 1/1/95]
- [Filed 12/15/94, Notice 11/9/94—published 1/4/95, effective 3/1/95]
- [Filed 2/16/95, Notice 1/4/95—published 3/15/95, effective 5/1/95]
- [Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
- [Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
- [Filed emergency 10/31/95—published 11/22/95, effective 11/1/95]
- [Filed emergency 12/12/95—published 1/3/96, effective 1/1/96]
- [Filed 1/10/96, Notice 11/22/95—published 1/31/96, effective 4/1/96]
- [Filed 2/14/96, Notice 1/3/96—published 3/13/96, effective 5/1/96]
- [Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
- [Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
- [Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]
- [Filed 2/12/97, Notice 1/1/97—published 3/12/97, effective 5/1/97]
- [Filed emergency 3/12/97—published 4/9/97, effective 4/1/97]
- [Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
- [Filed 5/14/97, Notice 4/9/97—published 6/4/97, effective 8/1/97]
- [Filed emergency 12/10/97—published 12/31/97, effective 1/1/98]
- [Filed 2/11/98, Notice 12/31/97—published 3/11/98, effective 5/1/98]
- [Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
- [Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
- [Filed emergency 12/8/99—published 12/29/99, effective 1/1/00]
- [Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 5/1/00]
- [Filed emergency 7/13/00—published 8/9/00, effective 8/1/00]
- [Filed emergency 10/11/00—published 11/1/00, effective 11/15/00]
- [Filed 11/8/00, Notice 8/9/00—published 11/29/00, effective 2/1/01]

\*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

- c. Twenty-four clock hours per week for institutions using clock hours.
- d. A series of courses or seminars which equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks.
- e. The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

**441—60.7(217) Time limit for eligibility.** A refugee may receive assistance, if otherwise eligible, during the first eight months the refugee is in the United States, beginning the month the refugee enters the country. **EXCEPTION:** For asylees, the date of entry is the date asylum is granted. The eight-month period of eligibility begins the month asylum is granted. A nonrefugee child in the home with a refugee parent (or refugee parents, if both are in the home) is eligible for assistance until the parent(s) has been in the United States for eight months, or until the child reaches eight months of age, whichever occurs first.

**60.7(1) Resources.** The resources of refugees excluded because of the eight-month limit shall be considered in the same manner as though these refugees were included in the eligible group.

**60.7(2) Income.**

a. When the eligible refugee group has income, the income shall be diverted to meet the needs of the refugees ineligible because of the time limit who would otherwise have been included in the refugee assistance group as defined in subrule 60.5(4).

b. The income of the refugees ineligible because of the time limit who would otherwise have been included in the assistance group as defined in subrule 60.5(4), shall be used first to meet the needs of the ineligible group and then applied to the eligible group's needs.

c. The amount of need for the ineligible group is the difference between the needs of the group including the ineligible refugees and the needs of the group excluding the ineligible refugees. Any excess income shall be applied to the needs of the eligible group.

d. Any cash grant received by the applicant under the Department of State or the Department of Justice reception and placement programs shall be disregarded as income and as a resource.

**441—60.8(217) Criteria for exemption from registration for employment services, registration, and refusal to register.** Each refugee applying for or receiving cash assistance shall register for employment unless the department determines the refugee is exempt because of reasons listed in subrule 60.8(1). Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs and acceptance of appropriate offers of employment.

**60.8(1) Exemptions.** The following refugees are exempt from registration:

a. A refugee who is under the age of 16; or who is aged 16 but under the age of 18 and attending elementary, secondary, or vocational or technical school full-time; or a refugee who is enrolled full-time in training approved by the local office as part of an approved employability plan; or a refugee 18 years of age who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching the age of 19.

(1) A refugee shall be considered as attending school full time when enrolled or accepted full time (as certified by the school or institute attended) in a school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) The refugee also shall be considered in regular attendance in months when the refugee is not attending because of an official school or training program, vacation, illness, convalescence, or family emergency. A refugee meets the definition of regular school attendance until the refugee has been officially dropped from the school rolls.

(3) When the refugee's education is temporarily interrupted pending adjustment of the education or training program, assistance shall be continued for a reasonable period of time to complete the adjustment.

b. A refugee aged 65 or older.

c. A refugee who is caring for another member of the household who has a physical or mental impairment which requires, as determined by a physician or licensed or certified psychologist and verified by the department, care in the home on a substantially continuous basis, and no other appropriate member of the household is available. The condition shall be established as specified in 441—paragraph 41.24(2) "d."

d. A woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which registration would otherwise be required or within the next six months. Verification of the pregnancy and estimated date of birth shall be obtained in the same manner as specified in 441—paragraph 41.24(2) "d."

e. A parent or other caretaker relative of a child under the age of three who personally provides full-time care for the child with only very brief and infrequent absences from the child. Only one parent or other caretaker relative in a case may be exempt under this paragraph. "Brief and infrequent absence" means short-term absences which do not reoccur on a regular basis. Any involvement by the parent employed less than 129 hours per month or attending school less than full-time, as defined by the school, shall be considered brief and infrequent. Recreational activities and vacations by the parent or child which result in the parent being absent from the child shall be considered brief and infrequent.

f. A refugee who is working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than ten workdays.

g. A refugee who is ill, when determined by the department on the basis of medical evidence or another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training.

h. A refugee who is incapacitated, when determined by a physician or licensed or certified psychologist and verified by the department, that a physical or mental impairment, by itself or in conjunction with age, prevents the refugee from engaging in employment or training.

**60.8(2) Registration.** A refugee not exempt under subrule 60.8(1) shall be considered an employable refugee. An employable refugee shall register with the department of employment services and, within 30 days of receipt of aid, participate in the employment services provided by the bureau of refugee services. The department does permit, but does not require, the voluntary registration for employment services of any applicant or recipient of refugee cash assistance who is exempt under the provisions of this rule. If a voluntary registrant fails or refuses to participate in appropriate employability services, to carry out job search, or to accept an appropriate offer of employment, the bureau of refugee services may deregister the refugee for up to 90 days from the date of determination that failure or refusal has occurred, but the refugee's cash assistance may not be affected.

**60.8(3) Refusal to register.**

a. An employable applicant refugee who refuses or fails to cooperate in accepting a referral to the department of employment services or the bureau of refugee services, refuses or fails to appear at the department of employment services office for registration, or refuses or fails to mail or deliver the registration form to the bureau of refugee services, shall be denied assistance.

b. Assistance for an employable recipient refugee shall be terminated when the refugee refuses or fails to register with the department of employment services or the bureau of refugee services.



c. For the first refusal or failure the refugee shall be sanctioned for three payment months. Subsequent refusals or failures shall result in a six-payment month sanction for each refusal or failure.

d. If the sanctioned individual is the only member of the filing unit, the assistance shall be terminated. If the filing unit includes other members, the department shall not take into account the sanctioned individual's needs in determining the filing unit's need for assistance. If the sanctioned individual is a caretaker relative, assistance provided to the other persons in the grant shall be made in the form of protective payments as defined in rule 441—43.22(239B).

e. A conciliation period prior to the imposition of sanctions must be provided for in accordance with the following time limitations. The conciliation effort shall begin as soon as possible, but no later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days. Either the department or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by conciliation.

**441—60.10(217) Uncategorized factors of eligibility.**

**60.10(1) Duplication of assistance.** A refugee whose needs are included in a refugee cash assistance grant shall not concurrently receive a grant under any other public assistance program administered by the department. Neither shall a recipient concurrently receive a grant from a public assistance program in another state.

**60.10(2) Contracts for support.** A person entitled to total support under the terms of an enforceable contract is not eligible to receive refugee cash assistance when the other party, obligated to provide the support, is able to fulfill that part of the contract.

**60.10(3) Participation in a strike.**

a. The spouse and children shall be ineligible for assistance for any month in which the other spouse or parent is participating in a strike on the last day of the month.

b. Any person shall be ineligible for assistance for any month in which the person is participating in a strike on the last day of that month.

c. Definitions of a strike and participating in a strike are defined in 441—subrule 41.25(5), paragraph “c.”

**441—60.11(217) Temporary absence from home.** Temporary absence from home is defined in 441—subrule 41.23(3).

**441—60.12(217) Application.** The application shall be processed as defined in 441—40.22(239B).

**441—60.13(217) Continuing eligibility.** Continuing eligibility shall be determined as defined in rule 441—40.27(239B) except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

**441—60.14(217) Alternate payees.** Alternate payees are defined in 441—Chapter 43 except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

EXCEPTION: 441—subrule 43.22(1), paragraph “c,” shall not apply to refugee cash assistance applicants or recipients.

**441—60.15(217) Payment.** Payment shall be issued as defined in 441—Chapter 45 except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

**441—60.16(217) Overpayment recovery.** Recovery of overpayments and intentional program violation shall be determined as defined in 441—Chapter 46, Division II, except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

These rules are intended to implement Iowa Code section 217.6.

[Filed 9/5/86, Notice 6/18/86—published 9/24/86, effective 11/1/86]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed emergency 5/13/88—published 6/1/88, effective 5/13/88]

[Filed without Notice 9/21/88—published 10/19/88, effective 12/1/88]

[Filed 5/10/89, Notice 4/5/89—published 5/31/89, effective 8/1/89]

[Filed emergency 9/18/91 after Notice 4/17/91—published 10/16/91, effective 10/1/91]

[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]

[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]

[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]

[Filed emergency 9/25/95—published 10/11/95, effective 10/1/95]

[Filed 11/16/95, Notice 10/11/95—published 12/6/95, effective 2/1/96]

[Filed 2/14/96, Notice 12/20/95—published 3/13/96, effective 5/1/96]

[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]

[Filed emergency 9/12/00—published 10/4/00, effective 10/1/00]

[Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]

[Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 2/1/01]

**75.23(6) *Assets held in common.*** In the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or the affected portion of the asset, shall be considered to be transferred by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of the asset.

**75.23(7) *Transfer by spouse.*** In the case of a transfer by a spouse of an individual which results in a period of ineligibility for medical assistance under the state plan for the individual, the period of ineligibility shall be apportioned between the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the state plan. The remaining penalty period shall be evenly divided on a monthly basis, with any remaining month of penalty (prorated as a half month to each spouse) applied to the spouse who initiated the transfer action.

If a spouse subsequently dies prior to the end of the penalty period, the remaining penalty period shall be applied to the surviving spouse's period of ineligibility.

**75.23(8) *Definitions.*** In this rule the following definitions apply:

**"Assets"** shall include all income and resources of the individual and the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by:

1. The individual or the individual's spouse.
2. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.
3. Any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

**"Income"** shall be defined by 42 U.S.C. Section 1382a.

**"Institutionalized individual"** shall mean an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility or who is eligible for home- and community-based waiver services.

**"Resources"** shall be defined by 42 U.S.C. Section 1382b without regard (in the case of an institutionalized individual) to the exclusion of the home and land appertaining thereto.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud.

2. The second part of the document outlines the specific procedures that must be followed when recording transactions. It details the steps from the initial receipt of funds to the final entry in the accounting system, ensuring that every transaction is properly documented and verified.

3. The third part of the document addresses the role of internal controls in the financial reporting process. It explains how internal controls help to ensure the accuracy and reliability of financial statements by providing a systematic approach to the identification and mitigation of risks.

4. The fourth part of the document discusses the importance of transparency and accountability in financial reporting. It highlights the need for clear communication and the availability of information to all stakeholders, which is crucial for building trust and confidence in the organization's financial performance.

5. The fifth part of the document provides a summary of the key points discussed and offers recommendations for further improvement. It encourages the organization to continue to refine its financial reporting processes and to stay up-to-date with the latest best practices in the industry.

*“Transfer or disposal of assets”* means any transfer or assignment of any legal or equitable interest in any asset as defined above, including:

1. Giving away or selling an interest in an asset;
2. Placing an interest in an asset in a trust that is not available to the grantor (see 75.24(2) “b”(2));
3. Removing or eliminating an interest in a jointly owned asset in favor of other owners;
4. Disclaiming an inheritance of any property, interest, or right pursuant to Iowa Code section 633.704 on or after July 1, 2000 (see Iowa Code Supplement section 249A.3(11) as amended by 2000 Iowa Acts, chapter 1060, section 3);
5. Failure to take a share of an estate as a surviving spouse (also known as “taking against a will”) on or after July 1, 2000, to the extent that the value received by taking against the will would have exceeded the value of the inheritance received under the will (see Iowa Code Supplement section 249A.3(11) as amended by 2000 Iowa Acts, chapter 1060, section 3); or
6. Transferring or disclaiming the right to income not yet received.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

**441—75.24(249A) Treatment of trusts established after August 10, 1993.** For purposes of determining an individual’s eligibility for, or the amount of, medical assistance benefits, trusts established after August 10, 1993, (except for trusts specified in 75.24(3)) shall be treated in accordance with 75.24(2).

**75.24(1) Establishment of trust.**

a. For the purposes of this rule, an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the principal of the trust and if any of the following individuals established the trust other than by will: the individual, the individual’s spouse, a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual’s spouse), or a person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual’s spouse.

b. The term “assets,” with respect to an individual, includes all income and resources of the individual and of the individual’s spouse, including any income or resources which the individual or the individual’s spouse is entitled to but does not receive because of action by the individual or the individual’s spouse, by a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual’s spouse), or by any person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual’s spouse.

c. In the case of a trust, the principal of which includes assets of an individual and assets of any other person or persons, the provisions of this rule shall apply to the portion of the trust attributable to the individual.

d. This rule shall apply without regard to:

- (1) The purposes for which a trust is established.
- (2) Whether the trustees have or exercise any discretion under the trust.
- (3) Any restrictions on when or whether distribution may be made for the trust.
- (4) Any restriction on the use of distributions from the trust.

e. The term “trust” includes any legal instrument or device that is similar to a trust, including a conservatorship.

**75.24(2) Treatment of revocable and irrevocable trusts.**

a. In the case of a revocable trust:

(1) The principal of the trust shall be considered an available resource.

(2) Payments from the trust to or for the benefit of the individual shall be considered income of the individual.

(3) Any other payments from the trust shall be considered assets disposed of by the individual, subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

b. In the case of an irrevocable trust:

(1) If there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the principal from which, or the income on the principal from which, payment to the individual could be made shall be considered an available resource to the individual and payments from that principal or income to or for the benefit of the individual shall be considered income to the individual. Payments for any other purpose shall be considered a transfer of assets by the individual subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

(2) Any portion of the trust from which, or any income on the principal from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) to be assets disposed of by the individual subject to the penalties specified at 75.23(3) and 441—Chapter 89. The value of the trust shall be determined for this purpose by including the amount of any payments made from this portion of the trust after this date.

**75.24(3) Exceptions.** This rule shall not apply to any of the following trusts:

a. A trust containing the assets of an individual under the age of 65 who is disabled (as defined in Section 1614(a)(3) of the Social Security Act) and which is established for the benefit of the individual by a parent, grandparent, legal guardian of the individual, or a court if the state will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual.

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual.

For disposition of trust amounts pursuant to Iowa Code sections 633.707 to 633.711, the average statewide charges and Medicaid rates for the period from July 1, 2000, to June 30, 2001, shall be as follows:

(1) The average statewide charge to a private pay resident of a nursing facility is \$2,758 per month.

(2) The average statewide charge to a private pay resident of a hospital-based skilled nursing facility is \$9,836 per month.

(3) The average statewide charge to a private pay resident of a non-hospital-based skilled nursing facility is \$4,523 per month.

(4) The average statewide Medicaid rate for a resident of an intermediate care facility for the mentally retarded is \$8,510 per month.

(5) The average statewide charge to a resident of a mental health institute is \$9,962 per month.

(6) The average statewide charge to a private pay resident of a psychiatric medical institution for children is \$4,359 per month.

(7) The average statewide charge to a home- and community-based waiver applicant or recipient shall be consistent with the level of care determination and correspond with the average charges and rates set forth in this paragraph.

c. A trust containing the assets of an individual who is disabled (as defined in 1614(a)(3) of the Social Security Act) that meets the following conditions:

(1) The trust is established and managed by a nonprofit association.

(2) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

- [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
- [Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
- [Filed 7/14/93, Notice 5/12/93—published 8/4/93, effective 10/1/93]
- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
- [Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
- [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed without Notice 12/16/93—published 1/5/94, effective 2/9/94]
- [Filed 12/16/93, Notices 10/13/93, 10/27/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notices 12/8/93, 1/5/94—published 3/2/94, effective 5/1/94]
- [Filed 3/10/94, Notice 2/2/94—published 3/30/94, effective 6/1/94]
- [Filed 4/14/94, Notice 2/16/94—published 5/11/94, effective 7/1/94]
- [Filed 5/11/94, Notice 3/16/94—published 6/8/94, effective 8/1/94]
- [Filed 6/16/94, Notice 4/27/94—published 7/6/94, effective 9/1/94]
- [Filed 9/15/94, Notice 8/3/94—published 10/12/94, effective 11/16/94]
- [Filed 10/12/94, Notice 8/17/94—published 11/9/94, effective 1/1/95]
- [Filed emergency 12/15/94—published 1/4/95, effective 1/1/95]
- [Filed 12/15/94, Notices 10/26/94, 11/9/94—published 1/4/95, effective 3/1/95]
- [Filed 2/16/95, Notices 11/23/94, 12/21/94, 1/4/95—published 3/15/95, effective 5/1/95]
- [Filed 4/13/95, Notices 2/15/95, 3/1/95—published 5/10/95, effective 7/1/95]
- [Filed emergency 9/25/95—published 10/11/95, effective 10/1/95]
- [Filed 11/16/95, Notices 9/27/95, 10/11/95—published 12/6/95, effective 2/1/96]
- [Filed emergency 12/12/95—published 1/3/96, effective 1/1/96]
- [Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 3/1/96]
- [Filed 2/14/96, Notice 1/3/96—published 3/13/96, effective 5/1/96]
- [Filed 4/10/96, Notice 2/14/96—published 5/8/96, effective 7/1/96]
- [Filed emergency 9/19/96—published 10/9/96, effective 9/19/96]
- [Filed 10/9/96, Notice 8/28/96—published 11/6/96, effective 1/1/97]
- [Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]◊
- [Filed 12/12/96, Notices 9/11/96, 10/9/96—published 1/1/97, effective 3/1/97]
- [Filed 2/12/97, Notice 1/1/97—published 3/12/97, effective 5/1/97]
- [Filed 3/12/97, Notice 1/1/97—published 4/9/97, effective 6/1/97]
- [Filed 4/11/97, Notice 2/26/97—published 5/7/97, effective 7/1/97]
- [Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
- [Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
- [Filed emergency 12/10/97—published 12/31/97, effective 1/1/98]
- [Filed emergency 12/10/97 after Notices 10/22/97, 11/5/97—published 12/31/97, effective 1/1/98]
- [Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
- [Filed 2/11/98, Notice 12/31/97—published 3/11/98, effective 5/1/98]◊
- [Filed 3/11/98, Notice 1/14/98—published 4/8/98, effective 6/1/98]
- [Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
- [Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
- [Filed emergency 6/25/98—published 7/15/98, effective 7/1/98]
- [Filed 7/15/98, Notices 6/3/98—published 8/12/98, effective 10/1/98]
- [Filed 8/12/98, Notices 6/17/98, 7/1/98—published 9/9/98, effective 11/1/98]
- [Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]

◊Two or more ARCs

- [Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 2/1/99]
- [Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
- [Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
- [Filed 3/10/99, Notice 1/27/99—published 4/7/99, effective 7/1/99]
- [Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
- [Filed 5/14/99, Notice 4/7/99—published 6/2/99, effective 8/1/99]
- [Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
- [Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
- [Filed emergency 8/12/99 after Notice 6/16/99—published 9/8/99, effective 9/1/99]
- [Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
- [Filed emergency 11/10/99 after Notice 10/6/99—published 12/1/99, effective 12/1/99]
- [Filed emergency 12/8/99—published 12/29/99, effective 1/1/00]
- [Filed 12/8/99, Notice 11/3/99—published 12/29/99, effective 2/2/00]
- [Filed 12/8/99, Notice 10/6/99—published 12/29/99, effective 3/1/00]
- [Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 5/1/00]◇
- [Filed emergency 3/8/00—published 4/5/00, effective 4/1/00]
- [Filed 5/10/00, Notice 3/22/00—published 5/31/00, effective 8/1/00]
- [Filed emergency 6/8/00—published 6/28/00, effective 7/1/00]
- [Filed emergency 6/8/00 after Notice 4/19/00—published 6/28/00, effective 7/1/00]
- [Filed 6/8/00, Notice 4/5/00—published 6/28/00, effective 9/1/00]
- [Filed 8/9/00, Notice 6/14/00—published 9/6/00, effective 11/1/00]
- [Filed emergency 9/12/00 after Notice 7/12/00—published 10/4/00, effective 10/1/00]
- [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
- [Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]



CHAPTER 79  
OTHER POLICIES RELATING TO PROVIDERS OF  
MEDICAL AND REMEDIAL CARE

[Prior to 7/1/83, Social Services[770] Ch 79]

**441—79.1(249A) Principles governing reimbursement of providers of medical and health services.** The basis of payment for services rendered by providers of services participating in the medical assistance program is either a system based on the provider's allowable costs of operation or a fee schedule. Generally, institutional types of providers such as hospitals and intermediate care facilities are reimbursed on a cost-related basis and practitioners such as physicians, dentists, optometrists, and similar providers are reimbursed on the basis of a fee schedule. Providers of service must accept reimbursement based upon the department's methodology without making any additional charge to the recipient.

**79.1(1) Types of reimbursement.**

*a. Prospective cost-related.* Providers are reimbursed on the basis of a per diem rate calculated prospectively for each participating provider based on reasonable and proper costs of operation. The rate is determined by establishing a base year per diem rate to which an annual index is applied.

*b. Retrospective cost-related.* Providers are reimbursed on the basis of a per diem rate calculated retrospectively for each participating provider based on reasonable and proper costs of operation with suitable retroactive adjustments based on submission of financial and statistical reports by the provider. The retroactive adjustment represents the difference between the amount received by the provider during the year for covered services and the amount determined in accordance with an accepted method of cost apportionment (generally the Medicare principles of apportionment) to be the actual cost of service rendered medical assistance recipients.

*c. Fee schedules.* Fees for the various procedures involved are determined by the department with advice and consultation from the appropriate professional group. The fees are intended to reflect the amount of resources (time, training, experience) involved in each procedure. Individual adjustments will be made periodically to correct any inequity or to add new procedures or eliminate or modify others. If product cost is involved in addition to service, reimbursement is based either on a fixed fee, wholesale cost, or on actual acquisition cost of the product to the provider, or product cost is included as part of the fee schedule. Providers on fee schedules are reimbursed the lower of:

- (1) The actual charge made by the provider of service.
- (2) The maximum allowance under the fee schedule for the item of service in question.

Payment levels for fee schedule providers of service will be increased on an annual basis by an economic index reflecting overall inflation as well as inflation in office practice expenses of the particular provider category involved to the extent data is available. Annual increases will be made beginning July 1, 1988.

There are some variations in this methodology which are applicable to certain providers. These are set forth below in subrules 79.1(3) to 79.1(9) and 79.1(15).

Copies of fee schedules in effect for the providers covered by fee schedules can be obtained by contacting the department's fiscal agent at the following address: Consultec, Inc., P.O. Box 14422, Des Moines, Iowa 50306-3422.

*d. \* Monthly fee for service.* Providers are reimbursed on the basis of a payment for a month's provision of service for each client enrolled in a case management program for any portion of the month based on reasonable and proper costs for service provision. The fee will be determined by the department with advice and consultation from the appropriate professional group and will reflect the amount of resources involved in services provision.

*e. Retrospectively limited prospective rates.* Providers are reimbursed on the basis of a rate for a unit of service calculated prospectively for each participating provider (and, for supported community living daily rates, for each consumer or site) based on projected or historical costs of operation, subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment based on actual, current costs of operation so as not to exceed reasonable and proper costs by more than 2.5 percent.

The prospective rates for new providers who have not submitted six months of cost reports will be based on a projection of the provider's reasonable and proper costs of operation until the provider has submitted an annual cost report that includes a minimum of six months of actual costs. The prospective rates paid established providers who have submitted an annual report with a minimum of a six-month history are based on reasonable and proper costs in a base period and are adjusted annually for inflation. The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment based on the provider's actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 2.5 percent.

*f. Contractual rate.* Providers are reimbursed on a basis of costs incurred pursuant to a contract between the provider and subcontractor.

*g. Retrospectively adjusted prospective rates.* Critical access hospital providers are reimbursed prospectively on a DRG basis for inpatient care and an APG basis for outpatient care, pursuant to subrule 79.1(5), with retrospective adjustments based on annual cost reports submitted by the hospital at the end of the hospital's fiscal year. The retroactive adjustment equals the difference between the reasonable costs of providing covered services to eligible fee-for-service Medicaid recipients (excluding recipients in managed care), determined in accordance with Medicare cost principles, and the Medicaid fee-for-service reimbursement received on the DRG and APG basis. Amounts paid prior to adjustment that exceed reasonable costs shall be recovered by the department. The base rate upon which the DRG and APG payment is built shall be changed after any retrospective adjustment to reflect, as accurately as is possible, the reasonable costs of providing covered services to eligible fee-for-service Medicaid recipients for the coming year using the most recent utilization as submitted to the fiscal agent and Medicare cost principles.

**79.1(2) Basis of reimbursement of specific provider categories.**

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Ambulance	Fee schedule	Ground ambulance: Fee schedule in effect 6/30/00 plus 0.7%. Air ambulance: A base rate of \$209.54 plus \$7.85 per mile for each mile the patient is carried.
Ambulatory surgical centers	Base rate fee schedule as determined by Medicare. See 79.1(3)	Rate determined by Medicare
Area education agencies	Fee schedule	Fee schedule in effect 6/30/00 plus 0.7%
Audiologists	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Birth centers	Fee schedule	Fee schedule in effect 6/30/00 plus 0.7%
Case management providers	Retrospective cost-related	Retrospective rate
Certified registered nurse anesthetists	Fee schedule	Fee schedule in effect 6/30/00 plus 0.7%
Chiropractors	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Clinics	Fee schedule	Maximum physician reimbursement rate
Community mental health centers	Fee schedule	Reimbursement rate for center in effect 6/30/00 plus 17.33%
Dentists	Fee schedule	75% of usual and customary rate
Durable medical equipment, prosthetic devices and medical supply dealers	Fee schedule. See 79.1(4)	Fee schedule in effect 6/30/00 plus 0.7%
Family or pediatric nurse practitioner	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Family planning clinics	Fee schedule	Fees in effect 6/30/00 plus 0.7%
Federally qualified health centers (FQHC)	Retrospective cost-related See 441—88.14(249A)	1. 100% of reasonable cost as determined by Medicare cost reimbursement principles 2. In the case of services provided pursuant to a contract between an FQHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve "1" above
HCBS AIDS/HIV waiver service providers, including:		
1. Counseling		
Individual:	Fee schedule	\$10.07 per unit
Group:	Fee schedule	\$40.26 per hour
2. Home health aide	Retrospective cost-related	Maximum Medicare rate
3. Homemaker	Fee schedule	\$18.49 per hour
4. Nursing care	Agency's financial and statistical cost report and Medicare percentage rate per visit	Cannot exceed \$74.77 per visit

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
5. Respite care providers, including:		
Home health agency:		
Specialized respite	Rate for nursing services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day
Basic individual respite	Rate for home health aide services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Home care agency:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Nonfacility care:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Facility care:		
Hospital or nursing facility providing skilled care	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for skilled nursing facility level of care
Nursing facility	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for nursing facility level of care
Intermediate care facility for the mentally retarded	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for ICF/MR level of care

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Hospitals (Critical access)	Retrospectively adjusted prospective rates. See 79.1(1)“g” and 79.1(5)	The reasonable cost of covered services provided to medical assistance recipients or the upper limits for other hospitals, whichever is greater
Hospitals (Inpatient)	Prospective reimbursement. See 79.1(5)	Reimbursement rate in effect 6/30/00 increased by 3%
Hospitals (Outpatient)	Prospective reimbursement for providers listed at 441—paragraphs 78.31(1)“a” to “f.” See 79.1(16)	Ambulatory patient group rate (plus an evaluation rate) and assessment payment rate in effect on 6/30/00 increased by 3%
	Fee schedule for providers listed at 441—paragraphs 78.31(1)“g” to “n.” See 79.1(16)	Rates in effect on 6/30/00 increased by 3%
Independent laboratories	Fee schedule. See 79.1(6)	Medicare fee schedule. See 79.1(6)
Intermediate care facilities for the mentally retarded	Prospective reimbursement. See 441—82.5(249A)	Eightieth percentile of facility costs as calculated from 12/31/99 cost reports
Lead inspection agency	Fee schedule	Fee schedule in effect 6/30/00 plus 0.7%
Maternal health centers	Reasonable cost per procedure on a prospective basis as determined by the department based on financial and statistical data submitted annually by the provider group	Fee schedule in effect 6/30/00 plus 0.7%
Nurse-midwives	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Nursing facilities:		
1. Nursing facility care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A)	Seventieth percentile of facility costs as calculated from all 6/30/00 cost reports
2. Skilled nursing care provided in: Hospital-based facilities	Prospective reimbursement. See 79.1(9)	Facility base rate per diems used on 6/30/99 inflated by 2% subject to a maximum allowable payment rate of \$346.20 per day for hospital-based skilled facilities

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Freestanding facilities	Prospective reimbursement. See 79.1(9)	Facility base rate per diems used on 6/30/99 inflated by 2% subject to a maximum allowable payment rate of \$163.41 per day for freestanding skilled facilities
Opticians	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Reimbursement rate for provider in effect 6/30/00 plus 0.7%
Optometrists	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Orthopedic shoe dealers	Fee schedule	Reimbursement rate for provider in effect 6/30/00 plus 0.7%
Pharmaceutical case management	Fee schedule. See 79.1(18)	Refer to 79.1(18)
Physical therapists	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Physicians (doctors of medicine or osteopathy)	Fee schedule. See 79.1(7)	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology, excluding anesthesia services. Anesthesia services will be reimbursed at the Iowa Medicaid fee schedule rate in effect 6/30/00 plus 0.7%.
Podiatrists	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Prescribed drugs	See 79.1(8)	\$4.13 or \$6.42 dispensing fee (See 79.1(8)“a” and “e”)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Psychiatric medical institutions for children (Inpatient)	Prospective reimbursement	Reimbursement rate for provider based on per diem rates for actual costs on 6/30/00, not to exceed a maximum of \$147.20 per day
(Outpatient day treatment)	Fee schedule	Fee schedule in effect 6/30/00 plus 0.7%
Psychologists	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Rehabilitation agencies	Retrospective cost-related	Reimbursement rate for agency in effect 6/30/00 plus 0.7%
Rehabilitative treatment services	Reasonable and necessary costs per unit of service based on data included on the Rehabilitative Treatment and Supportive Services Financial and Statistical Report, Form 470-3049. See 441—185.101(234) to 441—185.107(234). A provider who is an individual may choose between the fee schedule in effect November 1, 1993 (See 441—subrule 185.103(7)) and reasonable and necessary costs.	No cap
Rural health clinics (RHC)	Retrospective cost-related See 441—88.14(249A)	1. 100% of reasonable cost as determined by Medicare cost reimbursement principles 2. In the case of services provided pursuant to a contract between an RHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve “1” above
Screening centers	Fee schedule	Reimbursement rate for center in effect 6/30/00 plus 0.7%
State-operated institutions	Retrospective cost-related	

**79.1(3) Ambulatory surgical centers.** Payment is made for facility services on a fee schedule which is determined by Medicare. These fees are grouped into eight categories corresponding to the difficulty or complexity of the surgical procedure involved. Procedures not classified by Medicare shall be included in the category with comparable procedures.

Services of the physician are reimbursed on the basis of a fee schedule (see subrule 79.1(1) "c"). This payment is made directly to the physician.

**79.1(4) Durable medical equipment, prosthetic devices, medical supply dealers.** Fees for durable medical appliances, prosthetic devices and medical supplies are developed from several pricing sources and are based on pricing appropriate to the date of service; prices are developed using prior calendar year price information. The average wholesale price from all available sources is averaged to determine the fee for each item. Payment for used equipment will be no more than 80 percent of the purchase allowance. For supplies, equipment, and servicing of standard wheelchairs, standard hospital beds, enteral nutrients, and enteral and parenteral supplies and equipment, the fee for payment shall be the lowest price for which the devices are widely and consistently available in a locality.

**79.1(5) Reimbursement for hospitals.**

*a. Definitions.*

"Adolescent" shall mean a Medicaid patient 17 years or younger.

"Adult" shall mean a Medicaid patient 18 years or older.

"Average daily rate" shall mean the hospital's final payment rate multiplied by the DRG weight and divided by the statewide average length of stay for a DRG.

"Base year cost report" shall mean the hospital's cost report with fiscal-year-end on or after January 1, 1998, and prior to January 1, 1999, except as noted in 79.1(5)"x." Cost reports shall be reviewed using Medicare's cost reporting regulations for cost reporting periods ending on or after January 1, 1998, and prior to January 1, 1999.

"Blended base amount" shall mean the case-mix adjusted, hospital-specific operating cost per discharge associated with treating Medicaid patients, plus the statewide average case-mix adjusted operating cost per Medicaid discharge, divided by two. This base amount is the value to which add-on payments for inflation, capital costs, direct medical education costs, and costs associated with treating a disproportionate share of poor patients and indirect medical education are added to form a final payment rate.

"Capital costs" shall mean an add-on to the blended base amount which shall compensate for Medicaid's portion of capital costs. Capital costs for buildings, fixtures and movable equipment are defined in the hospital's base year cost report, are case-mix adjusted, are adjusted to reflect 80 percent of allowable costs, and are adjusted to be no greater than one standard deviation off the mean Medicaid blended capital rate.

"Case-mix adjusted" shall mean the division of the hospital-specific base amount or other applicable components of the final payment rate by the hospital-specific case-mix index.

"Case-mix index" shall mean an arithmetical index measuring the relative average costliness of cases treated in a hospital compared to the statewide average.

"Cost outlier" shall mean cases which have an extraordinarily high cost as established in 79.1(5)"f," so as to be eligible for additional payments above and beyond the initial DRG payment.

"Critical access hospital" or "CAH" means a hospital licensed as a critical access hospital by the department of inspections and appeals pursuant to rule 481—51.52(135B).

"Diagnosis-related group (DRG)" shall mean a group of similar diagnoses combined based on patient age, procedure coding, comorbidity, and complications.



(5) Allocation for disproportionate share. To determine the total amount of funding that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share payments, the department shall:

1. Sum all routine disproportionate share payments using paid claims to qualifying providers on or after July 1, 1998, and through June 30, 1999.
2. Sum all routine disproportionate share payments from claims made to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with either an HMO or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for routine disproportionate share. The disproportionate share PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for routine disproportionate share (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated updates. The total amount of disproportionate share reimbursement cannot exceed the cap that was implemented under Public Law 102-234.

(6) Distribution of disproportionate share fund. Distribution of the fund for disproportionate share shall be on a monthly basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid claims to qualifying hospitals) and dividing the total amount of money allocated to the graduate medical education and disproportionate share fund for disproportionate share by each respective hospital's percentage.

If a hospital fails to qualify for reimbursement for disproportionate share under Iowa Medicaid regulations, the amount of money that would otherwise be allocated for that hospital shall be removed from the total fund.

*z. Adjustments to the graduate medical education and disproportionate share fund for changes in utilization.* Money shall be added to or subtracted from the graduate medical education and disproportionate share fund when the average monthly Medicaid population deviates from the previous year's averages by greater than 5 percent. The average annual population (expressed in a monthly total) shall be determined on June 30 for both the previous and current years by adding the total enrolled population for all respective months from both years' B-1 MARS report and dividing each year's totals by 12. If the average monthly number of enrolled persons for the current year is found to vary more than 5 percent from the previous year, a per member per month (PMPM) amount shall be calculated for each component (using the average number of eligibles for the previous year calculated above) and an annualized PMPM adjustment shall be made for each eligible person that is beyond the 5 percent variance.

*aa. Retrospective adjustment for critical access hospitals.* Payments to critical access hospitals pursuant to paragraphs 79.1(5) "a" to "z" are subject to a retrospective adjustment equal to the difference between the reasonable costs of covered services provided to eligible fee-for-service Medicaid recipients (excluding recipients in managed care), based on the hospital's annual cost reports and Medicare cost principles, and the Medicaid fee-for-service reimbursement received pursuant to paragraphs 79.1(5) "a" to "z." Amounts paid prior to adjustment that exceed reasonable costs shall be recovered by the department. The base rate upon which the DRG and APG payment is built shall be changed after any retrospective adjustment to reflect, as accurately as is possible, the reasonable costs of providing the covered service to eligible fee-for-service Medicaid recipients for the coming year using the most recent utilization as submitted to the fiscal agent and Medicare cost principles.

**79.1(6) Independent laboratories.** The maximum payment for clinical diagnostic laboratory tests performed by an independent laboratory will be the areawide fee schedule established by the Health Care Financing Administration (HCFA). The fee schedule is based on the definition of laboratory procedures from the Physician's Current Procedural Terminology (CPT) published by the American Medical Association. The fee schedules are adjusted annually by HCFA to reflect changes in the Consumer Price Index for All Urban Consumers.

**79.1(7) Physicians.** The fee schedule is based on the definitions of medical and surgical procedures given in the most recent edition of Physician's Current Procedural Terminology (CPT). Refer to 441—paragraph 78.1(2)“e” for the guidelines for immunization replacement.

**79.1(8) Prescribed drugs.** The amount of payment shall be based on several factors in accordance with 42 CFR 447.331—333 as amended to October 28, 1987:

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

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

The basis of payment for prescribed drugs for which the MAC has been established shall be the lesser of the MAC plus a professional dispensing fee of \$4.13 or the pharmacist's usual and customary charge to the general public.

The basis of payment for drugs for which the MAC has not been established shall be the lesser of the EAC plus a professional dispensing fee of \$6.42 or the pharmacist's usual and customary charge to the general public.

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

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

b. The determination of the unit cost component of the drug shall be based on the package size of drugs most frequently purchased by providers.

c. No payment shall be made for sales tax.

d. All hospitals which wish to administer vaccines which are available through the vaccines for children program to Medicaid recipients shall enroll in the vaccines for children program. In lieu of payment, vaccines available through the vaccines for children program shall be accessed from the department of public health for Medicaid recipients. Hospitals receive reimbursement for the administration of vaccines to Medicaid recipients through the DRG reimbursement for inpatients and APG reimbursement for outpatients.

e. The basis of payment for nonprescription drugs shall be the same as specified in paragraph “a” except that a maximum allowable reimbursable cost for these drugs shall be established by the department at the median of the average wholesale prices of the chemically equivalent products available. No exceptions for reimbursement for higher cost products will be approved.

- [Filed 9/18/91, Notices 7/10/91, 7/24/91—published 10/16/91, effective 12/1/91]
  - [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]
  - [Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]
- [Filed emergency 1/16/92 after Notice 11/27/91—published 2/5/92, effective 3/1/92\*\*\*\*]
  - [Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 4/8/92]
  - [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed emergency 5/13/92 after Notice 4/1/92—published 6/10/92, effective 5/14/92]
  - [Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
- [Filed 6/11/92, Notices 3/18/92, 4/29/92—published 7/8/92, effective 9/1/92]
  - [Filed without Notice 6/11/92—published 7/8/92, effective 9/1/92]
  - [Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
  - [Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
  - [Filed 9/11/92, Notice 7/8/92—published 9/30/92, effective 12/1/92]
  - [Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]
  - [Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
- [Filed emergency 12/30/92 after Notice 11/25/92—published 1/20/93, effective 1/1/93]
  - [Filed 1/14/93, Notice 11/11/92—published 2/3/93, effective 4/1/93]
  - [Filed 3/11/93, Notice 1/20/93—published 3/31/93, effective 6/1/93]
  - [Filed 4/15/93, Notice 3/3/93—published 5/12/93, effective 7/1/93]
- [Filed emergency 5/14/93 after Notice 3/31/93—published 6/9/93, effective 6/1/93]
  - [Filed 5/14/93, Notice 3/31/93—published 6/9/93, effective 8/1/93]
  - [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
  - [Filed 6/11/93, Notice 4/28/93—published 7/7/93, effective 9/1/93]
  - [Filed emergency 6/25/93—published 7/21/93, effective 7/1/93]
- [Filed emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]
  - [Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
  - [Filed 8/12/93, Notices 4/28/93, 7/7/93—published 9/1/93, effective 11/1/93]
  - [Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
  - [Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]
  - [Filed 11/12/93, Notice 9/29/93—published 12/8/93, effective 2/1/94]
  - [Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]
  - [Filed 1/12/94, Notice 11/10/93—published 2/2/94, effective 4/1/94]
- [Filed 3/10/94, Notices 1/19/94, 2/2/94—published 3/30/94, effective 6/1/94]
  - [Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
  - [Filed 9/15/94, Notice 7/6/94—published 10/12/94, effective 12/1/94]
  - [Filed 11/9/94, Notice 9/14/94—published 12/7/94, effective 2/1/95]
- [Filed 12/15/94, Notices 10/12/94, 11/9/94—published 1/4/95, effective 3/1/95]
  - [Filed 3/20/95, Notice 2/1/95—published 4/12/95, effective 6/1/95]
  - [Filed 5/11/95, Notice 3/29/95—published 6/7/95, effective 8/1/95]
  - [Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
  - [Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
- [Filed 11/16/95, Notices 8/2/95, 9/27/95—published 12/6/95, effective 2/1/96]
  - [Filed 5/15/96, Notice 2/14/96—published 6/5/96, effective 8/1/96]
  - [Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
  - [Filed 7/10/96, Notice 6/5/96—published 7/31/96, effective 10/1/96]

\*\*\*\*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

◇ Two ARCS

- [Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
- [Filed 9/17/96, Notice 7/31/96—published 10/9/96, effective 12/1/96]
- [Filed 11/13/96, Notice 9/11/96—published 12/4/96, effective 2/1/97]
- [Filed 2/12/97, Notice 12/18/96—published 3/12/97, effective 5/1/97]
- [Filed 3/12/97, Notices 1/1/97, 1/29/97—published 4/9/97, effective 6/1/97]
- [Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
- [Filed emergency 5/14/97 after Notice 3/12/97—published 6/4/97, effective 7/1/97]
- [Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
- [Filed 6/12/97, Notice 4/23/97—published 7/2/97, effective 9/1/97]
- [Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
- [Filed emergency 11/12/97—published 12/3/97, effective 11/12/97]
- [Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
- [Filed 1/14/98, Notices 11/19/97, 12/3/97—published 2/11/98, effective 4/1/98]
- [Filed 3/11/98, Notice 1/14/98—published 4/8/98, effective 6/1/98]
- [Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
- [Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
- [Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
- [Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]
- [Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 2/1/99]
- [Filed 1/13/99, Notice 11/4/98—published 2/10/99, effective 4/1/99]
- [Filed 2/10/99, Notice 12/16/98—published 3/10/99, effective 5/1/99]
- [Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
- [Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
- [Filed 6/10/99, Notice 5/5/99—published 6/30/99, effective 9/1/99]
- [Filed 7/15/99, Notice 5/19/99—published 8/11/99, effective 10/1/99]
- [Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
- [Filed 11/10/99, Notice 9/22/99—published 12/1/99, effective 2/1/00]
- [Filed 4/12/00, Notice 2/9/00—published 5/3/00, effective 7/1/00]
- [Filed emergency 6/8/00—published 6/28/00, effective 7/1/00]
- [Filed 6/8/00, Notice 4/19/00—published 6/28/00, effective 8/2/00]
- [Filed 8/9/00, Notice 6/14/00—published 9/6/00, effective 11/1/00]
- [Filed emergency 9/12/00 after Notice 7/26/00—published 10/4/00, effective 10/1/00]
- [Filed 9/12/00, Notice 6/14/00—published 10/4/00, effective 12/1/00]
- [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
- [Filed 11/8/00, Notice 9/20/00—published 11/29/00, effective 2/1/01]

CHAPTER 89  
DEBTS DUE FROM TRANSFERS OF ASSETS

PREAMBLE

This chapter provides for the establishment of a debt for medical assistance due to a transfer of assets for less than fair market value. These rules allow the department to establish a debt against a person who receives the transferred assets from a Medicaid applicant or recipient within five years prior to an application for medical assistance if the applicant is approved for Medicaid. The debt is established against the transferee in an amount equal to the medical assistance provided, but not in excess of the fair market value of the assets transferred.

**441—89.1(249F) Definitions.**

*“Department”* shall mean the department of human services.

*“Dwelling”* shall mean real property in which a person has an ownership interest and which serves as the person’s principal place of residence. Real property shall include the shelter in which the person lives, the land on which the shelter is located and related buildings on the land.

*“Fair market value”* shall mean the price for which property or an item could have been sold on the open market at the time of transfer.

*“Medical assistance”* shall mean “medical assistance,” “additional medical assistance,” “discretionary medical assistance” or “Medicare cost sharing” as each is defined in Iowa Code section 249A.2 which is provided to a person pursuant to Iowa Code chapter 249A and Title XIX of the federal Social Security Act.

*“Property”* shall mean anything of value, including both tangible and intangible property, real property and personal property.

*“Transfer”* shall mean the disposal of property for less than fair market value through gifting, sale or any transfer or assignment of a legal or equitable interest in property.

*“Transferee”* shall mean the person who receives a transfer or assignment of a legal or equitable interest in property for less than fair market value.

*“Transferor”* shall mean the person who makes a transfer of a legal or equitable interest in property for less than fair market value.

**441—89.2(249F) Creation of debt.**

**89.2(1) *Transfer of property.*** Except as provided in rule 441—89.3(249F), any transfer of property for less than fair market value creates a debt due and owing to the department from the transferee if:

a. The transfer is made while the transferor is receiving medical assistance or within five years prior to application for medical assistance and on or after July 1, 1993.

b. The transfer is made with the intent on the part of the transferee of enabling the transferor to obtain or maintain eligibility for medical assistance.

**89.2(2) *Amount of debt.*** The amount of the debt is the lesser of:

a. An amount equal to the medical assistance provided to or on behalf of the transferor on or after the date of the transfer.

b. The difference between the fair market value of the property at the time of transfer and the value of any consideration received.

**441—89.3(249F) Exceptions.** Notwithstanding rule 441—89.2(249F), exceptions for transfers that occur between July 1, 1993, and June 30, 1996, are in accordance with the rules during that time period. Notwithstanding rule 441—89.2(249F), the following exceptions apply to transfers that occur on or after July 1, 1996. The following transfers do not create a debt to the department:

1. Transfers to or for the sole benefit of the transferor's spouse, including a transfer to a spouse by an institutionalized spouse pursuant to Section 1924(f)(1) of the federal Social Security Act.
2. Transfers to or for the sole benefit of the transferor's child who is blind or disabled, as defined in Section 1614 of the federal Social Security Act.
3. Transfer of a dwelling, which serves as the transferor's home as defined in 20 CFR Section 416.1212, as amended to August 23, 1994, to a child of the transferor under 21 years of age.
4. Transfer of a dwelling, which serves as the transferor's home as defined in 20 CFR Section 416.1212, as amended to August 23, 1994, after the transferor is institutionalized, to either of the following:
  - A sibling of the transferor who has an equity interest in the dwelling and who was residing in the dwelling for a period of at least one year immediately prior to the date the transferor became institutionalized.
  - A child of the transferor who was residing in the dwelling for a period of at least two years immediately prior to the date the transferor became institutionalized and who provided care to the transferor which permitted the transferor to reside at the dwelling rather than in an institution or facility.
5. Transfers of less than \$2,000. All transfers by the same transferor during the five-year period prior to the application for medical assistance by the transferor shall be aggregated. If a transferor transfers property to more than one transferee during the five-year period prior to application for medical assistance by the transferor, the \$2,000 exemption shall be divided equally between the transferees for the five-year period prior to application for medical assistance.
6. Transfers that would, at the time of the transferor's application for medical assistance, have been exempt from consideration as a resource if they had been retained by the transferor, pursuant to 42 U.S.C. Section 1382(b)(a).
7. Transfers to a trust established solely for the benefit of the transferor's child who is blind or permanently and totally disabled as defined in Section 1614 of the federal Social Security Act.
8. Transfers to a trust established solely for the benefit of a person under 65 years of age who is disabled, as defined in Section 1614 of the federal Social Security Act.
9. Rescinded IAB 11/29/00, effective 1/3/01.

**441—89.4(249F) Presumption of intent.** Any transfer of property for less than fair market consideration made while the transferor is receiving medical assistance or within five years prior to an application for medical assistance is presumed to be made with the intent, on the part of the transferee, of enabling the transferor to obtain or maintain eligibility for medical assistance. This presumption can be rebutted only by clear and convincing evidence that the transferor's eligibility or potential eligibility for medical assistance was no part of the transferee's reason for accepting the transfer of property.

**441—89.5(249F) Notice of debt.** The department may issue a notice establishing and demanding payment of an accrued or accruing debt due and owing to the department as provided in rule 441—89.2(249F). The notice shall be sent by restricted certified mail, as defined in Iowa Code section 618.15, to the transferee at the transferee's last-known address. If service of the notice is unable to be completed by restricted certified mail, the notice shall be served upon the transferee in accordance with the Iowa Rules of Civil Procedure. The notice shall include all of the following:

**89.5(1) Amount of debt.** The amount of medical assistance provided to the transferor to date which creates the debt.

**89.5(2) *Computation of debt.*** A computation of the debt due and owing.

**89.5(3) *Demand for payment.*** A demand for immediate payment of the debt.

**89.5(4) *Request for conference.***

a. A statement that if the transferee desires to discuss the notice, the transferee may contact the department and request an informal conference.

b. A statement that, if a conference is requested, the transferee has until 10 days after the date set for the conference or until 20 days after the date of service of the original notice, whichever is later, to send a written request for a hearing to the department.

c. A statement that after the conference, the department may issue a new notice to be sent to the transferee or the transferee's attorney.

d. A statement that if the department issues a new notice the transferee has until 10 days after the date of mailing of the new notice or until 20 days after the date of service of the original notice to send a written request for a hearing to the department.

**89.5(5) *Request for hearing without conference.*** A statement that the transferee has until 20 days after the date of service of the original notice to send a written response setting forth any objections and requesting a hearing to the department.

**89.5(6) *Hearing in district court.*** A statement that if a timely written request for a hearing is received by the department, the transferee has the right to a hearing to be held in district court; and if no timely written request for hearing is received, the department shall enter an order in accordance with the latest notice.

**89.5(7) *Collection action.*** A statement that as soon as the order is entered the property of the transferee is subject to collection action including, but not limited to, wage withholding, garnishment, attachment of a lien, issuance of a distress warrant, or execution.

**89.5(8) *Responsibilities of transferee.*** A statement that the transferee must give the department written notice of any change of address or employment.

**89.5(9) *Questions.*** A statement that if the transferee has any questions regarding the transfer of assets, the transferee should contact the department or consult an attorney.

**89.5(10) *Other information.*** Other information as the department finds appropriate.

**441—89.6(249F) No timely request of a hearing.**

**89.6(1) *Entering of order.*** If a timely written request for hearing is not received by the department, the department may enter an order in accordance with the latest notice. The order is final, and action by the department to enforce and collect upon the order may be taken from the date of the issuance of the order.

**89.6(2) *Order.*** The transferee shall be sent a copy of the order by first-class mail addressed to the transferee at the transferee's last known address or, if applicable, to the transferee's attorney at the last known address of the transferee's attorney. The order shall specify:

a. The amount to be paid with directions as to the manner of payment.

b. The amount of the debt accrued and accruing in favor of the department.

c. Notice that the property of the transferee is subject to collection action including, but not limited to, wage withholding, garnishment, attachment of a lien, issuance of a distress warrant, and execution.

**441—89.7(249F) Timely request for a hearing.** If a timely written request for a hearing is received by the department, the department shall certify the matter for hearing to the district court where the transferee resides or to the district court where the transferor resides if the transferee is not an Iowa resident. If neither the transferor nor the transferee resides in Iowa, the order may be filed in any county in which the transferor formerly resided.

The certification shall include true copies of the original notice, the return of service, any request for an informal conference, if applicable, any subsequent notices, the written request for hearing, and true copies of any administrative orders previously entered.

**441—89.8(249F) Department-requested hearing.** The department may also request a hearing on its own motion regarding the determination of a debt at any time prior to entry of an administrative order.

**441—89.9(249F) Filing and docketing of the order.** A true copy of an order entered by the department, pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the transferee resides or, if the transferee resides in another state, in the office of the district court in the county in which the transferor resides. The department's order shall be presented, ex parte, to the district court for review and approval.

**441—89.10(249F) Exemption from Iowa Code chapter 17A.** Actions initiated under Iowa Code chapter 249F are not subject to Iowa Code chapter 17A. Review by the district court shall be an original hearing before the district court.

These rules are intended to implement Iowa Code chapter 249F as amended by 2000 Iowa Acts, chapter 1060.

[Filed 1/12/94, Notice 11/10/93—published 2/2/94, effective 4/1/94]  
 [Filed 8/15/96, Notice 6/19/96—published 9/11/96, effective 11/1/96]  
 [Filed 7/14/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]  
 [Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]

TITLE IX  
*WORK INCENTIVE DEMONSTRATION*

CHAPTER 90  
 WORK INCENTIVE DEMONSTRATION PROGRAM (WIN/CMS)

[Prior to 7/1/83, Social Services[770], Ch 90]  
 [Prior to 2/11/87, Human Services[498]]  
 Rescinded, effective 7/1/89; see 441—Chapter 93

CHAPTER 91  
 GRANT DIVERSION PROGRAM  
 Rescinded, effective 7/1/89

CHAPTER 92  
 CASH BONUS PROGRAM  
 Rescinded IAB 11/9/94, effective 1/1/95



CHAPTER 176  
DEPENDENT ADULT ABUSE  
[Prior to 7/1/83, Social Services[770] Ch 156]  
[Previously appeared as Ch 156—renumbered IAB 2/29/84]  
[Prior to 2/11/87, Human Services[498]]

**441—176.1(235B) Definitions.**

*“Adult abuse”* means any of the following as a result of the willful or negligent acts or omissions of a caretaker:

1. Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
2. The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
3. Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult’s physical or financial resources for one’s own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
4. The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health.

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health as a result of the acts or omissions of the dependent adult.

*“Appropriate evaluation or assessment”* means that evaluation or assessment reasonably believed by the department to be warranted by the facts and circumstances of the case as reported.

*“Assault”* means “assault” as defined in Iowa Code section 708.1.

*“Caretaker”* means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

*“Collateral sources”* means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and public health nurses.

*“Confidentiality”* means the withholding of information from any manner of communication, public or private.

*“Denial of critical care”* exists when the dependent adult’s basic needs are denied or ignored to such an extent that there is immediate or potential danger of the dependent adult suffering injury or death, or is a denial of, or a failure to provide the mental health care necessary to adequately treat the dependent adult’s serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning, or is a failure of the caretaker to provide for the proper supervision of the dependent adult.

*“Department”* means the department of human services and includes the county and central offices of the department, unless otherwise specified.

*“Dependent adult”* means a person 18 years of age or older who is unable to protect the person’s own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another.

*“Expungement”* means the process of destroying dependent adult abuse information.

*“Immediate danger to health or safety”* means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

*“Individual employed as an outreach person”* means a person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

*"Informed consent"* (as used in Iowa Code paragraph 235B.2(5)"c") means a dependent adult's agreement to allow something to happen that is based on a full disclosure of known facts and circumstances needed to make the decision intelligently, i.e., knowledge of risks involved or alternatives.

*"Minimum food, shelter, clothing, supervision, physical and mental health care, and other care"* means that food, shelter, clothing, supervision, physical and mental health care, and other care which, if not provided, would constitute denial of critical care.

*"Multidisciplinary team"* shall mean a membership of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, social work, law, law enforcement and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

*"Physical injury"* means damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage, or physical injury which is at variance with the history given of it.

*"Preponderance of evidence"* shall mean evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

*"Proper supervision"* means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall a person place a dependent adult in a situation that may endanger the dependent adult's life or health or cruelly punish or unreasonably confine the dependent adult.

*"Registry"* means the central registry for dependent adult abuse information established in Iowa Code Supplement section 235B.5.

*"Report"* means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

**441—176.2(235B) Denial of critical care.** The failure on the part of the caretaker or dependent adult to provide for minimum food, shelter, clothing, supervision, physical or mental care, and other care necessary for the dependent adult's health and welfare when financially able to do so or when offered financial and other reasonable means to do so shall constitute denial of critical care to that dependent adult.

**441—176.3(235B) Appropriate evaluation.** Immediately upon receipt of a dependent adult abuse report the worker shall conduct an intake sufficient to determine whether the allegation constitutes a report of dependent adult abuse.

**176.3(1)** Dependent adult abuse reports shall be evaluated when all of the following criteria are alleged to be met:

- a. The person is a dependent adult.
- b. Dependent adult abuse exists as defined in Iowa Code section 235B.2.
- c. A caretaker exists in reports of physical injury to or unreasonable confinement or cruel punishment of a dependent adult; commission of a sexual offense; exploitation; and deprivation by another person of food, shelter, clothing, supervision, physical and mental health care and other care necessary to maintain life or health.

**176.3(2)** Nondependent adult abuse situations. The following are not dependent adult abuse situations:

- a. A report of domestic abuse under Iowa Code chapter 236, Domestic Abuse, does not in and of itself constitute a report of dependent adult abuse.
- b. Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- c. Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- d. Withholding and withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian pursuant to the applicable procedures under Iowa Code chapter 125, 144A, 222, 229, or 633.
- e. All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the department of corrections.

**176.3(3)** Reports of dependent adult abuse which are the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included on the central registry. The central registry shall be notified as to the disposition of the assessment.

**441—176.4(235B) Reporters.** The central registry and local office shall accept reports from mandatory reporters or any other person who believes dependent adult abuse has occurred. Mandatory reporters shall make a written report within 48 hours after an oral report. The reporter may use the department's Form 470-2441, Suspected Dependent Adult Abuse Reporting Form, or may use a form developed by the reporter which meets the requirements of Iowa Code section 232.70.

**441—176.5(235B) Reporting procedure.**

**176.5(1)** Each report made by someone other than a mandatory reporter may be oral or written.

**176.5(2)** The report shall be made by telephone or otherwise to the department of human services. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

**176.5(3)** The department of human services shall:

- a. Immediately, upon receipt of a report, make an oral report to the registry;
- b. Forward a copy of the report to the registry; and
- c. Promptly notify the appropriate county attorney of the receipt of any report.

**176.5(4)** The report shall contain the following information, or as much thereof as the person making the report is able to furnish:

- a. The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other persons believed to be responsible for the care of the dependent adult.
- b. The dependent adult's present whereabouts if not the same as the address given.
- c. The reason the adult is believed to be dependent. Dependency is the first criterion to be considered before beginning an evaluation.
- d. The dependent adult's age.
- e. The nature and extent of the adult abuse, including evidence of previous adult abuse. The existence of alleged adult abuse is the second criterion to be considered before beginning an evaluation.

f. Information concerning the suspected adult abuse of other dependent adults in the same residence.

g. Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse, or helpful in providing assistance to the dependent adult.

h. The name and address of the person making the report.

176.5(5) A report shall be accepted whether or not it contains all of the information requested in 176.5(4), and may be made to the department, county attorney, or law enforcement agency. When the report is made to any agency other than the department of human services, that agency shall promptly refer the report to the department.

**441—176.6(235B) Duties of the department upon receipt of report.**

176.6(1) When a report is received, the department shall promptly commence an appropriate evaluation or assessment, except that the state department of inspections and appeals is responsible for the evaluation and disposition of a case of adult abuse in a health care facility, including hospitals as defined in Iowa Code section 135B.1, subsection 1, and facilities as defined in Iowa Code section 135C.1, subsection 5. The department shall forward all reports and other information concerning adult abuse in a health care facility to the state department of inspections and appeals on the first working day following the submitting of the report. The state department of inspections and appeals shall inform the registry of all actions taken or contemplated concerning the evaluation or disposition of a case of adult abuse in a health care facility. The primary purpose of the evaluation or assessment by the department shall be the protection of the dependent adult named in the report.

176.6(2) The evaluation or assessment shall include all of the following:

a. Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.

b. The identification of the person or persons responsible for the adult abuse.

c. A determination of whether other dependent adults in the same residence have been subjected to adult abuse.

d. A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.

e. A critical explanation of all other pertinent matters.

176.6(3) The evaluation or assessment, with the consent of the dependent adult or caretaker, when appropriate, may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult. If permission to enter the residence and to examine the dependent adult is refused, the district court, upon a showing of probable cause that a dependent adult has been abused, may authorize a person, authorized by the department, to make an evaluation or assessment, to enter the residence of, and to examine the dependent adult.

Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to gain access to the financial records of the dependent adult.

176.6(4) County attorneys, law enforcement agencies, multidisciplinary teams as defined in Iowa Code section 235B.1, subsection 1, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

**176.6(5)** The department, upon completion of its evaluation, shall transmit a copy of its preliminary report, including actions taken or contemplated, to the registry within four regular working days after the department receives the adult abuse report, unless the registry grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the registry grants an extension of time for good cause shown.

The department, upon completion of its assessment in reports when the abuse is the result of the acts or omissions of the dependent adult, shall place the report, including actions taken or contemplated, in the case file of the dependent adult. The central registry shall be notified as to the disposition of the assessment.

**176.6(6)** The department shall also transmit a copy of the report of its evaluation or assessment to the appropriate county attorney. The county attorney shall notify the county office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.

**176.6(7)** Based on the evaluation, the department shall complete an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. The department shall explain that the department does not have independent legal authority to compel the acceptance of protective services. Upon voluntary acceptance of the offer of services, the department shall make referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The department may establish a sliding fee schedule for those persons able to pay a portion of the protective services provided. The following services may be offered and provided without regard to income: dependent adult protection, social casework, adult day care, adult support, transportation, and family planning.

**176.6(8)** Court action. When, upon completion of the evaluation or assessment or upon referral from the state department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator, or for admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code chapter 125, 222, 229, or 633. The department may pursue other remedies provided by law pursuant to the applicable procedures under Iowa Code sections 235B.17, 235B.18, 235B.19, and 235B.20 or any other legal remedy which provides protection to a dependent adult. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action, and shall appear and represent the department at all district court proceedings.

**176.6(9)** The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

**176.6(10)** In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to Iowa Code section 235B.3, subsection 7, paragraph "c," the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

**176.6(11)** Notification of licensing authority. Based on information discovered during an evaluation of dependent adult abuse in a program providing care to a dependent adult, the department shall notify the licensing or accrediting authority for the program, the governing body of the program, and the administrator in charge of the program of any of the following:

- a. A violation of program policy noted in the evaluation.
- b. An instance in which program policy or lack of program policy may have contributed to the dependent adult abuse.
- c. An instance in which general practice in the program appears to differ from the program's policy.

The licensing or accrediting authority, the governing body, and the administrator in charge of the program shall take any lawful action which may be necessary or advisable to protect dependent adults receiving care in the program.

**441—176.7(235B) Appropriate evaluation or assessment.**

**176.7(1)** After receipt of the report alleging dependent adult abuse the field worker shall make a preliminary evaluation or assessment to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources would tend to corroborate the alleged abuse.

**176.7(2)** When the information gathered in the preliminary evaluation or assessment tends to corroborate, or the worker is uncertain as to whether it repudiates the allegations of the report, the worker shall immediately continue the evaluation or assessment by making a reasonable effort to ensure the safety of the adult. The worker and the worker's supervisor shall determine whether an immediate threat to the physical safety of the adult is believed to exist. If an immediate threat to the physical safety of the adult is believed to exist, the field worker shall make every reasonable effort to examine the adult, as authorized by 176.6(3), within one hour after receipt of the report and shall take any lawful action necessary or advisable for the protection of the adult. When physical safety of the adult is not endangered, the worker shall make every reasonable effort to examine the adult within 24 hours after receipt of the report.

**176.7(3)** In the event the information gathered in the preliminary evaluation or assessment fails to corroborate the allegation of adult abuse, the worker, with approval of the supervisor, may terminate the evaluation or assessment and submit the "four-day report" required by subrule 176.6(5).

**441—176.8(235B) Immunity from liability for reporters.** A person participating in good faith in making a report or cooperating or assisting the department in evaluating or assessing a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

**441—176.9(235B) Registry records.** Central registry records shall be kept in the name of the dependent adult and cross-referenced in the name of the caretaker.

**441—176.10(235B) Adult abuse information disseminated.**

**176.10(1) Requests for information.** Written requests for adult abuse information by the subject of a report as defined in subrule 176.10(3), paragraph “a,” may be submitted to the county office of the department on Form 470-0612, Request for Dependent Adult Abuse Registry Information.

Oral requests for dependent adult abuse information may be made to the county office or the central registry when the person making the request believes that the information is needed immediately and the person is authorized to access the information, pursuant to the requirements of Iowa Code section 235B.7, subsection 2. If a request is made orally by telephone, a written request shall be filed within 72 hours of the oral request using Form 470-0612, Request for Dependent Adult Abuse Registry Information. When an oral request to the county office to obtain dependent adult abuse information is granted by the central registry, the county shall document the approval to the central registry through use of Form 470-0612.

All other requests for information shall be made to the central registry by mail or fax pursuant to the requirements of Iowa Code section 235B.7.

**176.10(2) Verification of identity.** The county office shall verify the identity of the person making the request on Form 470-0612, Request for Dependent Adult Abuse Registry Information. Upon verification of the identity of the person making the request, the county office shall transmit the request to the central registry. The central registry shall verify the identity of persons making requests for information directly to the central registry by telephone, mail, fax, or in person, on Form 470-0612, Request for Dependent Adult Abuse Registry Information.

**176.10(3) Approval of requests.** Access to dependent adult abuse information other than unfounded adult abuse information is authorized only to the following persons or entities:

a. Subjects of a report as follows:

(1) A dependent adult named in a report as a victim of abuse or the adult’s attorney.

(2) A person or the attorney for the person named in a report as having abused a dependent adult.

(3) A legal guardian, or the attorney for the guardian, of a dependent adult named in a report as a victim of abuse.

b. Persons involved in an evaluation or assessment of dependent adult abuse as follows:

(1) A health practitioner or mental health professional who is examining, attending, or treating a dependent adult whom the practitioner or professional believes or has reason to believe has been the victim of abuse or a health practitioner or mental health professional whose consultation with respect to the adult believed to have been the victim of abuse is requested by the department.

(2) An employee of the department of human services or department of inspections and appeals responsible for the evaluation or assessment of an adult abuse report.

(3) A law enforcement officer responsible for assisting in an evaluation or assessment of a dependent adult abuse report.

(4) A multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the evaluation, diagnosis, assessment, and disposition of a dependent adult abuse case.

(5) In an individual case, to the mandatory reporter who reported the dependent adult abuse.

c. Individuals, agencies, or facilities providing care to a dependent adult as follows:

(1) An authorized person or agency responsible for the care or supervision of a dependent adult named in a report as a victim of abuse or a person named in a report as having abused a dependent adult, if the district court or registry deems access to dependent adult abuse information by the person or agency to be necessary.

(2) A department of human services employee when it is necessary in the performance of the employee’s duty.

(3) A licensing authority for a facility providing care to an adult named in a report.

(4) An employee or agent of the department responsible for registering or licensing or approving the registration or licensing of a person, or to a person regulated by the department providing care to an adult.

(5) To an administrator of an agency certified by the department to provide services under a Medicaid home- and community-based services waiver, for the purpose of hiring staff or continued employment of staff.

d. Relating to judicial and administrative proceedings as follows:

(1) A district court involved in an adjudication or disposition of a dependent adult named in a report.

(2) A district court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving dependent adult abuse.

(3) A court or administrative agency hearing an appeal for correction of dependent adult abuse information as provided in Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 10.

(4) An expert witness at any stage of an appeal necessary for correction of dependent adult abuse information as provided in Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 10.

e. Others as follows:

(1) A person conducting bona fide research on dependent adult abuse, but without information identifying persons named in an adult abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the dependent adult, the adult's guardian and the person named in a report as having abused the dependent adult give permission to release the information.

(2) Registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) The department of public safety for the sole purpose of the filing of a claim for reparation pursuant to Iowa Code section 910A.5A.

(4) A legally constituted dependent adult abuse protection agency of another state which is investigating or treating a dependent adult named in a report as having been abused.

(5) The attorney for the department of human services who is responsible for representing the department.

(6) The legally authorized protection and advocacy agency recognized in Iowa Code section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

(7) A health care facility administrator or the administrator's designee, following the appeals process, for the purpose of hiring staff or continued employment of staff.

(8) The administrator of an agency providing care to a dependent adult in another state, for the purpose of performing an employment background check.

(9) The superintendent, or the superintendent's designee, of a school district or the authorities in charge of an accredited nonpublic school for the purposes of a volunteer or employment record check.



**176.10(4)** *Requests concerning applicants for employment and employees of health care programs.* A health care program making a request for dependent adult abuse information for the purpose of determining employability, as authorized by Iowa Code section 235B.6, subsection 2, paragraph "e," subparagraphs (6) and (7), and section 135C.33, subsection 6, shall request the information directly from the central registry or obtain the information from the Internet electronic information system maintained by the health facilities division of the department of inspections and appeals.

Requests made directly to the central registry shall be made on Form 470-0612, Request for Dependent Adult Abuse Registry Information.

Health care programs requesting dependent adult abuse background checks on employee applicants and employees by use of the Internet electronic information system shall complete Form 470-3767, Non-Redissemination Agreement. The form shall be signed by the administrator of the health care program and be sent to the central registry before receipt of the information from the department. The administrator shall agree not to redisseminate dependent adult abuse information obtained through the Internet electronic information system, except as authorized in Iowa Code sections 235B.6 and 235B.8.

**176.10(5)** *Dissemination of undetermined reports.* A report which cannot be determined by a preponderance of the evidence to be founded or unfounded may be disseminated and redisseminated in accordance with Iowa Code section 235B.8 until the report is expunged. Information referred to in the report may be referred to in subsequent reports and evaluations.

**176.10(6)** *Access to unfounded dependent adult abuse information.* Access to unfounded dependent adult abuse information is authorized only to persons identified as subjects of a report including the adult named in a report as a victim, a guardian of a dependent adult named in a report as a victim, a person named in a report as having abused a dependent adult or an attorney representing any of the above; an employee or agency of the department of human services responsible for the evaluation or assessment of a dependent adult abuse report; and registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.

**176.10(7)** *Requests concerning employees of department facilities.* When a request is made by the hiring authority of a department operated facility which provides direct client care and the request is made for the purpose of determining continued employability of a person employed, with or without compensation, by the facility, the information shall be requested directly from the central registry. The information requested shall be disseminated to the personnel office of the department. The personnel office shall redisseminate the information to the hiring authority for the person involved only upon a finding that the information has a direct bearing on employability of the person involved.

When the personnel office determines that the information has no direct bearing on employability, the hiring authority shall be notified that no job-related dependent adult abuse information is available. If the central registry and local office files contain no information, the hiring authority shall be so informed.

**176.10(8)** *Dependent adult abuse information disseminated and redisseminated.* Notwithstanding subrule 176.10(1), written requests and oral requests are not required for dependent adult abuse information that is disseminated to an employee of the department of human services, a district court, or the attorney representing the department as authorized by Iowa Code section 235B.6.

**176.10(9)** *Required notification.* The department shall notify orally the subject of a report of the results of the evaluation or assessment. The department shall subsequently transmit a written notice to the subject which will include information regarding the results, the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12, and the procedures for correction or expungement and appeal of dependent adult abuse information as provided in Iowa Code section 235B.10.

**176.10(10) Mandatory reporter notification.** The department shall attempt to notify orally the mandatory reporter who made the report in a dependent adult abuse case of the results of the evaluation or assessment and of the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12. The department shall subsequently transmit a written notice on Form 470-2444, Adult Protective Notification, to the mandatory reporter who made the report. The form shall include information regarding the results of the evaluation or assessment and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in Iowa Code section 235B.8.

**441—176.11(235B) Person conducting research.** The person in charge of the central registry shall be responsible for determining whether a person requesting dependent adult abuse information is conducting bona fide research. To make this determination, the central registry may require these persons to submit credentials and the research design. If the registry determines that identified information is essential to the research design, the registry shall also determine the method by which written permission is to be secured from the dependent adult or guardians of the dependent adult who could be identified by the information to be researched. Any costs incurred in the dissemination of the information shall be assumed by the researcher. The department will keep a public record of persons conducting research.

**441—176.12(235B) Examination of information.** Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8 a.m. and 12 p.m. or 1 p.m. and 4 p.m., Monday through Friday, except state authorized holidays.

The person, or that person's attorney, requesting to examine the information in the registry which reports to that person, shall be allowed to inspect the information after providing appropriate identification.

**441—176.13(235B) Dependent adult abuse information registry.** The department shall create a central abuse registry for dependent adult abuse information. The registry shall collect, maintain, and disseminate dependent adult abuse information as follows:

**176.13(1) Founded reports.** A report of dependent adult abuse determined to be founded shall be retained and sealed by the registry in accordance with Iowa Code section 235B.9.

**176.13(2) Unfounded reports.** A report of dependent adult abuse determined to be unfounded shall be expunged when it is determined to be unfounded in accordance with Iowa Code section 235B.9, subsection 2.

**176.13(3) Undetermined reports.** A report of dependent adult abuse in which the information cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged by the registry in accordance with Iowa Code section 235B.9, subsection 2.

**176.13(4) Assessments.** Reports involving abuse as a result of the acts or omissions of the dependent adult will be assessments. These reports shall be retained in the dependent adult's case file in the county office. These reports shall not be included in the central registry.

**441—176.14(235B) Central registry.** Rescinded IAB 10/30/91, effective 1/1/92.

**441—176.15(235B) Multidisciplinary teams.**

**176.15(1) Purpose of multidisciplinary teams.** The regional office shall establish multidisciplinary teams for the purpose of assisting the department in assessment, diagnosis, and disposition of reported dependent adult abuse cases. The disposition of a case may include the provision for treatment recommendations and services.

**176.15(2) Execution of team agreement.** When the team is established the regional administrator or designee and all team members shall execute an agreement on Form 470-2328, Dependent Adult Abuse Multidisciplinary Team Agreement. This agreement specifies:

- a. That the team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis and treatment of dependent adult abuse cases.
- b. That any team member may cause a dependent adult abuse case to be reviewed if approved by the department through use of the process of requesting adult abuse information specified in rule 176.10(235B).
- c. That no team members shall redisseminate adult abuse information obtained solely through the multidisciplinary team. This shall not preclude redissemination of information as authorized by Iowa Code section 235B.6 when an individual team member has received information as a result of another authorized access provision of the Code.
- d. That the department may consider the recommendation of the team in a specific dependent adult abuse case but shall not, in any way, be bound by the recommendations.
- e. That any written report or document produced by the team pertaining to an individual case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of Iowa Code sections 235B.6 and 235B.8 and of 441—Chapter 176.
- f. That any written records maintained by the team which identify an individual dependent adult abuse case shall be destroyed when the agreement lapses.
- g. That consultation team members shall serve without compensation.
- h. That any party to the contract may withdraw with or without cause upon the giving of 30 days' notice.
- i. The date on which the agreement will expire.

**176.15(3) Filing of agreement.** Whenever a team is created, a copy of the executed contract shall be filed with the central registry in addition to any other requirement placed upon execution of agreements by the department.

**441—176.16(235B) Medical and mental health examinations.** In any year in which the legislature appropriates funds, the department shall administer a payment program for mental health or medical health examinations for subjects of dependent adult abuse reports.

**176.16(1) Conditions for payment.** The following conditions must be met before payment can be made:

- a. Local resources to pay these costs must be exhausted.
- b. The examination must be scheduled during the evaluation or assessment process.
- c. Department staff must be involved in the decision to request the examination.

**176.16(2) Payment limits.** Payment for mental health examinations shall not exceed \$250. Payment for a complete medical examination shall not exceed \$160.

**176.16(3) Billing procedures.** Claims for payment shall be submitted to the division of adult, children and family services on Form 07-350, Purchase Order/Payment Voucher, accompanied by a letter from department staff certifying that the necessary conditions for payment have been met.

**441—176.17(235B) Request for correction or expungement.** The department of human services is responsible for correction or expungement of reports prepared by department staff. The department of inspections and appeals is responsible for correction or expungement of reports prepared by that department's staff and that determination shall be binding on the registry.

**176.17(1)** Within six months of the date of the notice of evaluation results, a person may file with the registry a written statement to the effect that the dependent adult abuse information referring to the person is partially or entirely erroneous. The person may also request a correction of that information or of the findings of the report. The registry will record all requests and immediately forward the requests to the division of health facilities, department of inspections and appeals, when the reports were prepared by the department of inspections and appeals. The registry will notify the person requesting a correction that the report has been sent to the department of inspections and appeals.

**176.17(2)** Unless the designated department corrects the information or findings as requested, the designated department shall provide the person with an opportunity for a hearing as provided by 441—Chapter 7 to correct the information or the findings. The department may defer the hearing until the conclusion of a pending district court case relating to the information or findings.

These rules are intended to implement Iowa Code chapter 235B as amended by 2000 Iowa Acts, chapter 1067.

[Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed 6/30/81, Notice 4/1/81—published 7/22/81, effective 8/26/81]

[Filed 11/5/82, Notice 8/18/82—published 11/24/82, effective 1/1/83]

[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]

[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]

[Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]

[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]

[Filed 8/23/85, Notice 7/3/85—published 9/11/85, effective 11/1/85]

[Filed 1/22/86, Notice 11/20/85—published 2/12/86, effective 4/1/86]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]

[Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]

[Filed 10/23/87, Notice 9/9/87—published 11/18/87, effective 1/1/88]

[Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 11/1/88]

[Filed emergency 10/27/88 after Notice of 9/7/88—published 11/16/88, effective 11/1/88]

[Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]

[Filed 11/14/90, Notice 9/19/90—published 12/12/90, effective 2/1/91]

[Filed 6/14/91, Notice 5/1/91—published 7/10/91, effective 9/1/91]

[Filed 10/10/91, Notice 9/4/91—published 10/30/91, effective 1/1/92]

[Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]

[Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]

[Filed 11/16/95, Notice 9/27/95—published 12/6/95, effective 2/1/96]

[Filed 10/9/96, Notice 8/14/96—published 11/6/96, effective 1/1/97]

[Filed 7/15/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]

[Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]

**CHAPTER 177**  
**IN-HOME HEALTH RELATED CARE**

[Prior to 7/1/83, Social Services[770] Ch 148]  
[Previously appeared as Ch 148—renumbered IAB 2/29/84]  
[Prior to 2/11/87, Human Services [498]]

**441—177.1(249) In-home health related care.** In-home health related care is a program of nursing care in an individual's own home to provide personal services to an individual because such individual's state of physical or mental health prevents independent self-care.

**441—177.2(249) Own home.** Own home means an individual's house, apartment, or other living arrangement intended for single or family residential use.

**441—177.3(249) Service criteria.** The client shall require health care services that would require the supervision of a professional registered nurse working under the certification of a physician.

**177.3(1) Skilled services may include but not be limited to:**

- a. Gavage feedings of individuals unable to eat solid foods.
- b. Intravenous therapy administered only by a registered nurse.
- c. Intramuscular injections required more than once or twice a week, excluding diabetes.
- d. Catheterizations, continuing care of indwelling catheters with supervision of irrigations and changing of Foley catheter when required.
- e. Inhalation therapy.
- f. Care of decubiti and other ulcerated areas, noting and reporting to physician.
- g. Rehabilitation services including, but not limited to: bowel and bladder training, range of motion exercises, ambulation training, restorative nursing services, reteaching the activity of daily living, respiratory care and breathing programs, reality orientation, reminiscing therapy, remotivation and behavior modification.
- h. Tracheotomy care.
- i. Colostomy care until the individual is capable of maintaining the colostomy personally.
- j. Care of medical conditions out of control which includes brittle diabetes and terminal conditions.
- k. Postsurgical nursing care, but only for short time periods, and primarily for individuals with complications following surgery, or with the need for frequent dressing changes.
- l. Monitoring medications needed for close supervision of medications because of fluctuating physical or psychological conditions, i.e., hypertensives, digitalis preparations, narcotics.
- m. Diets which are therapeutic and require evaluation at frequent intervals.
- n. Vital signs which is the recording and reporting of change in vital signs to the attending physician.

**177.3(2) Personal care services may include but not be limited to:**

- a. Supervision on a 24-hour basis for physical or emotional needs.
- b. Helping client with bath, shampoo, oral hygiene.
- c. Helping client with toileting.
- d. Helping client in and out of bed and with ambulation.
- e. Helping client to reestablish activities of daily living.
- f. Assisting with oral medications ordinarily self-administered and ordered by the physician.
- g. Performing incidental household services which are essential to the client's health care at home and are necessary to prevent or postpone institutionalization.

**441—177.4(249) Eligibility.****177.4(1) Eligible individual.**

a. The individual shall be eligible for supplemental security income in every respect except for income.

b. The physician's certification shall include a statement of the specific health care services and that the services can be provided in the individual's own home. The certification shall be given on Form SS-1719-0, Assessment of Functional Capacity of Client and Recommendation for Services, or on a similar plan of care form presently used by public health agencies.

c. The individual shall live in the individual's own home.

d. The client shall require and be receiving qualified health care services. Qualified health care services are health care services supervised by a registered nurse and approved by a physician.

**177.4(2) Relationship to other programs.** In-home health related care shall be provided only when other existing programs cannot meet the client's need.

**177.4(3) Maximum costs.** The maximum cost of service shall be \$471.06. The provider shall accept the payment made and shall make no additional charges to the recipient or others.

**177.4(4) Service plan.** A complete service plan shall be prepared which includes the services needed, the plan for providing these services, and the health care plan defined in rule 177.6(249).

**177.4(5) Certification procedure.** The approval by the area office of the department of human services of the case plan shall constitute certification and approval for payment.

**177.4(6) Temporary absence from home.** The client will remain eligible and payment will be made for services for a period not to exceed 15 days in any calendar month when the client is absent from the home for a temporary period. Payment will not be authorized for over 15 days for any continuous absence whether or not the absence extends into a succeeding month or months.

**177.4(7) Income for adults.** The gross income of the individual and spouse, living in the home, shall be limited to \$471.06 per month if one needs care or \$942.12 if both need care, with the following disregards:

a. The amount of the basic supplemental security income standard for an individual or a couple, as applicable.

b. When income is earned, \$65.00 plus one-half of any remaining income.

c. The amount of the supplemental security income standard for a dependent plus any established unmet medical needs, for each dependent living in the home. Any income of the dependent shall be applied to the dependent's needs before making this disregard.

d. The amount of the established medical needs of the ineligible spouse which are not otherwise met.

e. The amount of the established medical needs of the applicant or recipient which are not otherwise met and would not be met if the individual were eligible for the medical assistance program.

f. Rescinded, effective 7/1/84.

**177.4(8) Income for children.**

a. All income received by the parents in the home shall be deemed to the child with the following disregards:

(1) The amount of the basic supplemental security income standard for an individual when there is one parent in the home or for a couple when there are two parents in the home.

(2) The amount of the basic supplemental security income standard for a dependent for each ineligible child in the home.

(3) The amount of the unmet medical needs of the parents and ineligible dependents.

(4) When all income is earned, an additional basic supplemental security income standard for an individual in a one-parent home or for a couple in a two-parent home.

(5) When the income is both earned and unearned, \$65.00 plus one-half of the remainder of the earned income.

b. The income of the child shall be limited to \$471.06 per month with the following disregards:

(1) The amount of the basic supplemental security income standard for an individual.

(2) The amount of the established medical needs of the child which are not otherwise met and would not be met if the child were eligible for the medical assistance program.

(3) One-third of the child support payments received from an absent parent.

c. Rescinded, effective 7/1/84.

**177.4(9) Payment.** The client or the person legally designated to handle the client's finances shall be the sole payee for payments made under the program and shall be responsible for making payment to the provider except when the client payee becomes incapacitated or dies while receiving service.

a. The department shall have the authority to issue one payment to a provider on behalf of a client payee who becomes incapacitated or dies while receiving service.

b. When continuation of an incapacitated client payee in the program is appropriate, the department shall assist the client and the client's family to legally designate a person to handle the client's finances. Guardians, conservators, protective or representative payees, or persons holding power of attorney are considered to be legally designated.

c. Payment for the program shall be approved effective as of the date of application or the date all eligibility requirements are met and qualified health care services are provided, whichever is later, notwithstanding 42 U.S.C. 1382(c)(7).

**177.4(10) Application.** Application for in-home health related care shall be made on Form PA-1107-0, Application for Medical Assistance or State Supplementary Assistance. An eligibility determination shall be completed within 30 days from the date of the application, unless one or more of the following conditions exist:

a. An application has been filed and is pending for federal supplemental security income benefits.

b. The application is pending because the department has not received information, which is beyond the control of the client or the department.

c. The application is pending due to the disability determination process performed through the department.

d. The application is pending because the SS-1511-0, Provider Agreement, has not been completed and completion is beyond control of the client. When a Provider Agreement cannot be completed due to client's failure to locate a provider, applications shall not be held pending beyond 60 days from the date of application.

This rule is intended to implement Iowa Code section 249.3(2) "a."

#### **441—177.5(249) Providers of health care services.**

**177.5(1) Age.** The provider shall be at least 18 years of age.

**177.5(2) Physician's report.** The provider shall obtain a physician's report at the time service is initiated and annually thereafter. The report shall be on Form SS-1718-0, Provider Health Assessment Form.

**177.5(3) Qualifications.** The provider shall be qualified by training and experience to carry out the health care plan as specified in rule 177.4(4).

**177.5(4) Relative.** The provider may be related to the client, so long as the provider is not a member of the family as defined in rule 441—130.1(234).

**177.5(5)** Rescinded IAB 8/9/89, effective 10/1/89.

This rule is intended to implement Iowa Code section 249.3(2)“a.”

**441—177.6(249) Health care plan.** The nurse shall complete the health care plan with the physician's approval. The health care plan shall include the specific types of services required, the method of providing those services, and the expected duration of services.

**177.6(1) Transfer from medical facility.** When the client is being transferred from a medical hospital or long-term care facility, the service worker shall obtain a transfer document describing the client's current care plan, to be provided to the nurse supervising the in-home care plan.

**177.6(2) Medical records.**

a. Medical records shall include, whenever appropriate, transfer forms, physician's certification and orders, interdisciplinary case plan, interdisciplinary progress notes, drug administration records, treatment records, and incident reports. The nurse shall be responsible for ensuring that record requirements are met.

b. Medical records shall be located in the nurse's case file, with a copy of the interdisciplinary plan of care and physician's plan of service in the service worker's file, and all other records available to the service worker. Upon termination of the in-home care plan, the records shall be maintained in the county office of the department of human services, or in the office of the public health nurse and available to the service worker, for five years or until completion of an audit.

c. The client or legal representative shall have the right to view the client's medical records.

**177.6(3) Review.** The continuing need for in-home health care services shall be reviewed:

a. At a minimum of every 60 days by the physician, including a written recertification of continuing appropriateness of the plan;

b. At a minimum of every three months by the service worker, including a review of the total care plan; and

c. At a minimum of every 60 days by the nurse who shall review the nursing plan.

More frequent reviews may be required by the physician, the service worker, or the nurse.

**177.6(4) Annual physical.** The client shall obtain a physical examination report annually and shall be under the regular supervision of a physician.

This rule is intended to implement Iowa Code section 249.3(2)“a”(2).

**441—177.7(249) Client participation.**

**177.7(1)** All income remaining after the disregards in 177.4(7) and 177.4(8) shall be considered income available for services and shall be used for service costs before payment for in-home health care begins.

**177.7(2) First month.** When the first month of service is less than a full month, there is no client participation for that month. Payment will be made for the actual days of service provided according to the agreed-upon rate.

This rule is intended to implement Iowa Code section 249.3(2)“a”(2).

**441—177.8(249) Determination of reasonable charges.** Payment will be made only for reasonable charges for in-home health care services as determined by the service worker. Reasonableness shall be determined by:

**177.8(1) Community standards.** The prevailing community standards for cost of care for similar services.

**177.8(2) Services at no charge.** The availability of service providers at no cost to the department.

This rule is intended to implement Iowa Code section 249.3(2)“a”(2).



**441—177.9(249) Written agreements.**

**177.9(1) *Independent contractor.*** The provider shall be an independent contractor and shall in no sense be an agent, employee or servant of the state of Iowa, the Iowa department of human services, any of its employees, or of its clients.

**177.9(2) *Liability coverage.*** All professional health care providers shall have adequate liability coverage consistent with their responsibilities, as the department of human services assumes no responsibility for, or liability for, individuals providing care.

**177.9(3) *Provider agreement.*** The client and the provider shall enter into an agreement, using Form SS-1511-0, Provider Agreement, prior to the provision of service. Any reduction to the state supplemental assistance program shall be applied to the maximum amount paid by the department of human services as stated in the Provider Agreement by using Form 470-1999, Amendment to Provider Agreement.

This rule is intended to implement Iowa Code section 249.3(2) "a"(2).

**441—177.10(249) Emergency services.** Written instructions for dealing with emergency situations shall be completed by the nurse and maintained in the client's home and in the county department of human services office. The instructions shall include:

**177.10(1) *Persons to notify.*** The name and telephone number of the client's physician, the nurse, responsible family members or other significant persons, and the service worker.

**177.10(2) *Hospital.*** Information as to which hospital to utilize.

**177.10(3) *Ambulance.*** Information as to which ambulance service or other emergency transportation to utilize.

This rule is intended to implement Iowa Code section 249.3(2) "a"(2).

**441—177.11(249) Termination.** Termination of in-home health related care shall occur under the following conditions.

**177.11(1) *Request.*** Upon the request of the client or legal representative. When termination of the program would result in an individual being unable to protect the individual's own interests, arrangements for guardianship, commitment, or protective placements shall be provided.

**177.11(2) *Care unnecessary.*** When the client becomes sufficiently self-sustaining to remain in the client's own home with services that can be provided by existing community agencies as determined by the service worker.

**177.11(3) *Additional care necessary.*** When the physical or mental condition of the client requires more care than can be provided in the client's own home as determined by the service worker.

**177.11(4) *Excessive costs.*** When the cost of care exceeds the maximum established in 177.4(3).

**177.11(5) *Other services utilized.*** When the service worker determines that other services can be utilized to better meet the client's needs.

**177.11(6) *Terms of provider agreement not met.*** When it has been determined by the service worker that the terms of the provider agreement have not been met by the client or the provider, the state supplementary assistance payment may be terminated.

This rule is intended to implement Iowa Code section 249.3(2) "a"(2).

**441—177.12** Rescinded IAB 8/9/89, effective 10/1/89.

- [Filed emergency 10/7/76—published 11/3/76, effective 11/1/76]
- [Filed emergency 12/17/76—published 1/12/77, effective 12/17/76]
- [Filed 2/25/77, Notice 11/3/76—published 3/23/77, effective 4/27/77]
- [Filed emergency 5/24/77—published 6/15/77, effective 7/1/77]
- [Filed 10/24/77, Notice 9/7/77—published 11/16/77, effective 12/21/77]
- [Filed 5/24/78, Notice 3/22/78—published 6/14/78, effective 7/19/78]
- [Filed 12/19/80, Notice 10/29/80—published 1/7/81, effective 2/11/81]
- [Filed 6/30/81, Notice 4/29/81—published 7/22/81, effective 9/1/81]
- [Filed emergency 10/7/83—published 10/26/83, effective 11/1/83]
- [Filed without Notice 10/7/83—published 10/26/83, effective 12/1/83]
- [Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
- [Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
- [Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
- [Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
- [Filed emergency 10/1/85—published 10/23/85, effective 11/1/85]
- [Filed without Notice 10/1/85—published 10/23/85, effective 12/1/85]
- [Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 2/1/86]
- [Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
- [Filed 6/20/86, Notice 4/23/86—published 7/16/86, effective 9/1/86]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
- [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed 7/14/89, Notice 4/19/89—published 8/9/89, effective 10/1/89]
- [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
- [Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
- [Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
- [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]\*
- [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed 5/14/92, Notice 3/18/92—published 6/10/92, effective 8/1/92]
- [Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
- [Filed 6/16/94, Notice 4/13/94—published 7/6/94, effective 9/1/94]
- [Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
- [Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
- [Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
- [Filed 3/13/96, Notice 1/17/96—published 4/10/96, effective 6/1/96]
- [Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
- [Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
- [Filed emergency 3/12/97—published 4/9/97, effective 4/1/97]
- [Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
- [Filed 5/14/97, Notice 4/9/97—published 6/4/97, effective 8/1/97]
- [Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
- [Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
- [Filed emergency 12/8/99—published 12/29/99, effective 1/1/00]
- [Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 5/1/00]
- [Filed emergency 7/13/00—published 8/9/00, effective 8/1/00]
- [Filed 11/8/00, Notice 8/9/00—published 11/29/00, effective 2/1/01]

\*Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

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*PARKS AND RECREATION AREAS*

CHAPTER 61  
STATE PARKS AND RECREATION AREAS

[Prior to 12/31/86, Conservation Commission[290] Ch 45]

**571—61.1(461A) Applicability.** This chapter is applicable to all state-owned parks and recreation areas managed by the department of natural resources and political subdivisions unless otherwise noted.

**571—61.2(461A) Definitions.**

*“Bank or shoreline”* means the zone of contact of a body of water with the land and an area within 25 feet of the water’s edge.

*“Basic unit”* or *“basic camping unit”* means the portable shelter used by one to six persons.

*“Beach”* is as defined in rule 571—64.1(461A).

*“Beach house open shelter”* means a building located on the beach which is open on two or more sides and which may or may not have a fireplace.

*“Cabin”* means a small one-story dwelling of simple construction which is available for rental on a daily or weekly basis.

*“Camping”* means the erecting of a tent or shelter of natural or synthetic material, or placing a sleeping bag or other bedding material on the ground or parking a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.

*“Chaperoned, organized youth group”* means a group of persons 17 years of age and under which is sponsored by and accompanied by adult representatives of a formal organization including, but not limited to, Boy Scouts and Girl Scouts of America, churches, Young Men’s and Young Women’s Christian Association.

*“Fishing”* means taking or attempting to take fish utilizing hook, line and bait as defined in Iowa Code section 481A.72, or use of permitted devices for taking rough fish as determined by Iowa Code section 481A.76.

*“Free climbing”* means climbing with the use of hands and feet only and without the use of ropes, pins and other devices normally associated with rappelling and rock climbing.

*“Group camp”* means those camping areas at Dolliver, Springbrook and Lake Keomah where organized groups (i.e., family groups or youth groups) may camp. Dining hall facilities are available.

*“Lodge”* means a day-use building which is enclosed on all four sides and may have kitchen facilities such as a stove or refrigerator and which is available for rent on a daily basis. *“Lodge”* does not include buildings that are open on two or more sides and that contain fireplaces only.

*“Modern area”* means a camping area which has showers and flush toilets.

*“Nonmodern area”* means a camping area in which no showers are provided and which contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

*“Open shelter”* means a building which is open on two or more sides and which may or may not include a fireplace.

*“Organized youth group campsite”* means a designated camping area within or next to the main campground where chaperoned, organized youth groups may camp.

*“Person with physical disability”* means an individual, commonly termed a paraplegic or quadriplegic, with paralysis or a physical condition of the lower half of the body with the involvement of both legs, usually due to disease or injury to the spinal cord; a person who is a single or double amputee of the legs; or a person with any other physical affliction which makes it impossible to ambulate successfully in park or recreation area natural surroundings without the use of a wheeled conveyance.

“Persons with disabilities parking permit” means an identification device bearing the international symbol of accessibility issued by the Iowa department of transportation or similar devices issued by other states. The device can be a hanging device or on a motor vehicle as a plate or sticker as provided in Iowa Code section 321L.2 or 321L.9.

“Possession” means exercising dominion or control with or without ownership over property.

“Prohibited activity” means any activity other than fishing as defined in this rule including, but not limited to, picnicking and camping.

“Property” means personal property such as goods, money, or domestic animals.

“Recreation areas” means the following areas that have been designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
Badger Creek Recreation Area	Madison
Brushy Creek Recreation Area	Webster
Claire Wilson Park	Dickinson
Emerson Bay and Lighthouse	Dickinson
Fairport Recreation Area	Muscatine
Lower Gar Access	Dickinson
Marble Beach	Dickinson
Mines of Spain Recreation Area	Dubuque
Pioneer Recreation Area	Mitchell
Pleasant Creek Recreation Area	Linn
Templar Park	Dickinson
Volga River Recreation Area	Fayette
Wilson Island Recreation Area	Pottawattamie

These areas are managed for multiple uses, including public hunting, and are governed by rules established in this chapter as well as 571—Chapters 52 and 105. Use and management of these areas are governed by Iowa Code chapter 461A and by rules prescribed on area signs pursuant to Iowa Code section 461A.44.

“Refuse” means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid or solid waste or other discarded material.

“Scuba diving” means swimming with the aid of self-contained underwater breathing apparatus.

“State park” means the following areas managed by the state and designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
A. A. Call	Kossuth
Backbone	Delaware
Beed’s Lake	Franklin
Bellevue	Jackson
Big Creek	Polk
Black Hawk	Sac
Bobwhite	Wayne
Cedar Rock	Buchanan
Clear Lake	Cerro Gordo
Dolliver Memorial	Webster
Elinor Bedell	Dickinson
Elk Rock	Marion



Fort Atkinson	Winneshiek
Fort Defiance	Emmet
Geode	Henry
George Wyth	Black Hawk
Green Valley	Union
Gull Point	Dickinson
Honey Creek	Appanoose
Lacey-Keosauqua	Van Buren
Lake Ahquabi	Warren
Lake Anita	Cass
Lake Darling	Washington
Lake Keomah	Mahaska
Lake Macbride	Johnson
Lake Manawa	Pottawattamie
Lake of Three Fires	Taylor
Lake Wapello	Davis
Ledges	Boone
Lewis and Clark	Monona
Maquoketa Caves	Jackson
McIntosh Woods	Cerro Gordo
Mini-Wakan	Dickinson
Nine Eagles	Decatur
Noble Island	Allamakee
Okamanpedan	Emmet
Palisades-Kepler	Linn
Pikes Peak	Clayton
Pikes Point	Dickinson
Pilot Knob	Winnebago
Pine Lake	Hardin
Prairie Rose	Shelby
Preparation Canyon	Monona
Red Haw	Lucas
Rice Lake	Winnebago
Rock Creek	Jasper
Shimek Forest Camp	Lee
Springbrook	Guthrie
Stephens Forest Camp	Lucas
Stone	Plymouth and Woodbury
Trapper's Bay	Dickinson
Twin Lakes	Calhoun
Union Grove	Tama
Viking Lake	Montgomery
Walnut Woods	Polk
Wanata	Clay
Wapsipinicon	Jones

Waubonsie	Fremont
Wildcat Den	Muscatine
Yellow River Forest Camp	Allamakee

Use and management of these areas are governed by Iowa Code chapter 461A and by other rules prescribed on area signs pursuant to Iowa Code section 461A.44.

*"State park managed by another governmental entity"* means the following areas designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
Browns Lake-Bigelow Park	Woodbury
Cold Springs	Cass
Crystal Lake	Hancock
Eagle Lake	Hancock
Echo Valley	Fayette
Frank A. Gotch	Humboldt
Galland School	Lee
Heery Woods	Butler
Kearny	Palo Alto
Lake Cornelia	Wright
Lake Odessa Campground	Louisa
Margo Frankel Woods	Polk
Mill Creek	O'Brien
Oak Grove	Sioux
Oakland Mills	Henry
Pammel	Madison
Sharon Bluffs	Appanoose
Spring Lake	Greene
Swan Lake	Carroll

Use and management of these areas are governed by Iowa Code chapter 461A, by this chapter, and by rules adopted by the managing entity.

*"State preserve"* means the following areas or portion of the areas designated by action of the natural resource commission and state preserves advisory board:

<u>Area</u>	<u>County</u>
A. F. Miller	Bremer
Ames High Prairie	Story
Anderson Prairie	Emmet
Behrens Ponds and Woodland	Linn
Berry Woods	Warren
Bird Hill	Cerro Gordo
Bixby	Clayton
Bluffton Fir Stand	Winneshiek
Brush Creek Canyon	Fayette
Brushy Creek	Webster
Cameron Woods	Scott
Casey's Paha	Tama

Catfish Creek	Dubuque
Cayler Prairie	Dickinson
Cedar Bluffs Natural Area	Mahaska
Cedar Hills Sand Prairie	Black Hawk
Cheever Lake	Emmet
Clay Prairie	Butler
Claybanks Forest	Cerro Gordo
Coldwater Cave	Winneshiek
Crossman Prairie	Howard
Decorah Ice Cave	Winneshiek
Derald Dinesen Prairie	Shelby
Dolittle Prairie	Story
Fallen Rock	Hardin
Fish Farm Mounds	Allamakee
Five Ridge Prairie	Plymouth
Fleming Woods	Poweshiek
Fort Atkinson	Winneshiek
Freda Haffner Kettlehole	Dickinson
Gitche Manitou	Lyon
Hanging Bog	Linn
Hardin City Woodland	Hardin
Hartley Fort	Allamakee
Hayden Prairie	Howard
Hoffman Prairie	Cerro Gordo
Indian Bluffs Primitive Area	Jones
Indian Fish Trap	Iowa
Kalsow Prairie	Pocahontas
Kish-Ke-Kosh	Jasper
Lamson Woods	Jefferson
Liska-Stanek Prairie	Webster
Little Maquoketa River Mounds	Dubuque
Malanaphy Springs	Winneshiek
Malchow Mounds	Des Moines
Manikowski Prairie	Clinton
Mann Wilderness Area	Hardin
Marietta Sand Prairie	Marshall
Mericle Woods	Tama
Merrill A. Stainbrook	Johnson
Merritt Forest	Clayton
Montauk Historical Site	Fayette
Mossy Glen	Clayton

Mount Talbot	Woodbury and Plymouth
Mt. Pisgah Cemetery	Union
Nestor Stiles	Cherokee
Ocheyedan Mound	Osceola
Old State Quarry	Johnson
Palisades-Dows	Linn
Pecan Grove	Muscatine
Pellet Memorial Woods	Cass
Pilot Grove	Iowa
Pilot Knob	Hancock
Retz Memorial Woods	Clayton
Roberts Creek	Clayton
Rock Creek Island	Cedar
Rock Island Botanical	Linn
Roggman Boreal Slopes	Clayton
Rolling Thunder Prairie	Warren
Savage Memorial Woods	Henry
Searryl's Cave	Jones
Sheeder Prairie	Guthrie
Silver Lake Fen	Dickinson
Silvers-Smith Woods	Dallas
Slinde Mounds	Allamakee
St. James Lutheran Church	Winneshiek
Starr's Cave	Des Moines
Steele Prairie	Cherokee
Stinson Prairie	Kossuth
Strasser Woods	Polk
Sylvan Runkel	Monona
Toolesboro Mounds	Louisa
Turin Loess Hills	Monona
Turkey River Mounds	Clayton
White Pine Hollow	Dubuque
Williams Prairie	Johnson
Wittrock Indian Village	O'Brien
Woodland Mounds	Warren
Woodman Hollow	Webster
Woodthrush Woods	Jefferson

Use and management of these areas are governed by rules established in this chapter as well as by management plans adopted by the preserves advisory board.

"Swim" or "swimming" means to propel oneself in water by natural means, such as movement of limbs, and includes but is not limited to wading and the use of inner tubes or beach toy-type swimming aids.

"*Winter season*" means from the second Saturday in October to the third Sunday in May.

"*Yurt*" means a one-room circular fabric structure built on a platform which is available for rental on a daily or weekly basis.

### 571—61.3(461A) Camping.

**61.3(1) Fees.** The following are maximum per-night fees for camping in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be awarded by random drawing of registrations made available to all park visitors during the event.

	<u>Fee</u>	<u>Sales Tax</u>	<u>Total Per Night</u>
<i>a.</i> The following fees shall be in effect from the Monday before the national Memorial Day holiday through Monday, the national Labor Day holiday except where the period of applicability has been extended by 61.3(1)" <i>k</i> ":			
Nonmodern	\$ 8.57	.43	\$ 9.00
Modern	10.48	.52	11.00
<i>b.</i> The following fees shall be in effect from the Tuesday following the national Labor Day holiday through Sunday one week prior to the national Memorial Day holiday except where the period of applicability has been limited by 61.3(1)" <i>k</i> ":			
Nonmodern	5.71	.29	6.00
Modern	7.62	.38	8.00
<i>c.</i> Per person over the basic unit of six	.48	.02	.50
<i>d.</i> Electricity	4.76	.24	5.00
This fee will be charged in addition to the camping fee on sites where electricity is available (whether it is used or not).			
<i>e.</i> Chaperoned, organized youth group campsite, per group	14.29	.71	15.00
<i>f.</i> Cable television hookup	1.90	.10	2.00
<i>g.</i> Sewer and water hookup	2.85	.15	3.00
<i>h.</i> Additional fee for campgrounds designated for equestrian use.	2.85	.15	3.00
This fee is in addition to applicable fees listed above.			
<i>i.</i> Additional vehicle permitted under 61.3(5)" <i>d</i> "	4.76	.24	5.00
<i>j.</i> Camping tickets (book of seven)	86.67	4.33	91.00

(1) Camping tickets shall be valid for the calendar year in which the book is purchased and the calendar year immediately following.

In areas subject to a local option sales tax, the fee shall be administratively adjusted so that persons camping in those areas will pay the same total cost applicable in other areas.

(2) Camping tickets sold in one year will be valid for the following year. Persons using camping tickets purchased during the previous year will not be required to pay the difference due to any fee increase.

k. Fees as given in paragraph "a" shall be in effect each year in the following areas during the time period shown below:

Backbone State Park, Delaware County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Elinor Bedell State Park, Dickinson County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities at Gull Point State Park are closed for the season, whichever comes first.

Elk Rock State Park, Marion County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Emerson Bay Campground, Dickinson County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Fairport Campground, Muscatine County—May 1 through Monday, the national Labor Day holiday.

Gull Point State Park, Dickinson County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Lake Manawa State Park, Pottawattamie County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Ledges State Park, Boone County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Maquoketa Caves State Park, Jackson County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Marble Beach Campground, Dickinson County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Pikes Peak State Park, Clayton County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

Waubonsie State Park, Fremont County—Monday before the national Memorial Day holiday through October 31 or until the shower facilities are closed for the season, whichever comes first.

**61.3(2) Varying fees.** Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

**61.3(3) Procedures for camping registration.**

a. In most instances, registration of campers will be handled by a self-registration process. Registration forms will be provided by the department of natural resources.

Campers shall, within one-half hour of arrival at the campground, complete the registration form, place the appropriate fee or number of camping tickets in the envelope and place the envelope in the depository provided by the department of natural resources. One copy must then be placed in the holder provided at the campsite.

b. Campsites are considered occupied and registration for a campsite shall be considered complete when the requirements of 61.3(3) "a," second paragraph, have been met; however, it shall be the responsibility of the registered camper to ensure that the site is visibly occupied, thereby secure from others registering into the site if the site appears not to be occupied.

c. Campsite registration must be in the name of a person 18 years of age or older who will occupy the camping unit on that site for the full term of the registration.

d. Each camping ticket as provided in 61.3(1) "j" shall cover the cost of one night of camping in a modern area on a site where electricity is furnished. Persons camping on equestrian sites or on sites which also have sewer and water hookups or cable television hookups available must pay the additional charges for these services in addition to utilizing a camping ticket. Use of a camping ticket in an area or on a site which would require a lesser fee than an electrical site in a modern area will not entitle the user to a refund or credit of any nature.

**61.3(4) Designated youth group campsite registration and reservations.**

a. Registration procedures for designated youth group campsites shall be governed by “a,” “b” and “c” of 61.3(3).

b. Designated youth group campsites may be reserved by contacting the park manager. Reservations will be accepted only for the current calendar year.

**61.3(5) Restrictions on campsite/campground use.** This subrule sets forth conditions of public use which apply to all state parks and recreation areas. These general conditions are subject to exceptions for specific areas as listed in 61.3(6), 61.6(461A) and 61.9(461A). The conditions in this subrule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

a. Camping is restricted to designated camping areas within state parks and recreation areas and state forest campgrounds.

b. Camping is restricted to one basic unit per site except that a small tent or other type of camping unit may be placed on a site with the basic unit so long as the persons occupying the second unit are under 18 years of age and are dependent members of the immediate family occupying the basic unit.

c. Each camping group shall utilize only the electrical outlet fixture designated for its particular campsite. No extension cords or other means of hookup shall be used to furnish electricity from one designated campsite to another.

d. Each camping group will be permitted to park one motor vehicle not being used for camping purposes at the campsite. One additional vehicle may be parked at the campsite, unless otherwise posted at the park, provided that the fee given in 61.3(1)“i” has been paid.

e. All motor vehicles, excluding motorcycles, not covered by the provision in 61.3(5)“d” shall be parked in designated extra-vehicle parking areas.

f. Campers shall register as provided in subrule 61.3(3) within one-half hour of entering the campground.

g. Campers shall vacate the campground or register for the night prior to 4 p.m. daily. Registration can be for more than 1 night at a time but not for more than 14 consecutive nights. All members of the camping party must vacate the state park campground after the fourteenth night and may not return to that same area until a minimum of 3 days has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources campground host program agreement or to seasonal employees working under the Internship or AmeriCorps program.

h. Campsites marked with the international symbol of accessibility shall be used only by vehicles displaying a persons with disabilities parking permit. The vehicle must be in use by a person with a disability, either as an operator or passenger.

i. In designated campgrounds in all state areas, equine animals and llamas must be stabled inside a trailer or, when provided, at a hitch rail, individual stall or corral. Equine animals and llamas may be hitched to trailers for short periods of time to allow for grooming and saddling. These animals may be stabled at trailers where no hitching facilities are provided. Portable stalls/pens or electric fences are not permitted.

**61.3(6) Area-specific restrictions on campground use.** Notwithstanding the general conditions of public use set forth in 61.3(5) and 61.5(461A), special conditions shall apply to specific areas listed as follows:

a. Brushy Creek Recreation Area, Webster County.

(1) In the designated equestrian campgrounds, the maximum number of equine animals to be tied to the new, larger hitching rails is six and the maximum number for the older, smaller rails is four. Persons with a number of equine animals in excess of the number permitted on the hitching rail at their campsite shall be allowed to stable their additional animals in a trailer or at a nearby, unrented campsite.

(2) In the designated equestrian campgrounds, equine animals may be tied to trailers for short periods of time to allow grooming or saddling; however, the tying of equine animals to the exterior of trailers for extended periods of time or for stabling is not permitted.

b. Mines of Spain Recreation Area, Dubuque County. All persons except campers shall vacate all portions of the Mines of Spain Recreation Area prior to 10:30 p.m. each day, and no person or persons shall enter into the area until 4 a.m. the following day. Campers must remain in the campground between 10:30 p.m. and 4 a.m.

c. Volga River State Recreation Area, Fayette County. Access into and out of designated campgrounds shall be permitted from 4 a.m. to 10:30 p.m. From 10:30 p.m. to 4 a.m., only registered campers are permitted in the campground.

d. Lake Manawa State Park, Pottawattamie County. Except for the following limitations on campground length of stay, campsite use restrictions as stated in 61.3(5) shall apply to Lake Manawa.

Registration can be for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Lake Manawa campground for more than 14 nights in any 30-day period.

e. Walnut Woods State Park, Polk County. Except for the following limitations on campground length of stay, campsite use restrictions as stated in 61.3(5) shall apply to Walnut Woods.

Registration can be for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Walnut Woods campground for more than 14 nights in any 30-day period.

**61.3(7) Campground fishing.** Rule 61.9(461A) is not intended to prohibit fishing by registered campers who fish from the shoreline within the camping area.

**571—61.4(461A) Rental facilities, including cabins, lodges, open shelters, beach house open shelters, yurts, and group camps.** The following are maximum fees for facility use in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be awarded by random drawing of registrations made available to all park visitors during the event.

**61.4(1) Fees:**

a. *Cabin rental.* This fee does not include tax. Tax will be calculated at time of final payment.

	Per Night*	Per Week
Backbone State Park, Delaware County		
Renovated cabins	\$ 50	\$300
Two-bedroom cabins	85	510
Deluxe cabins	100	600
Dolliver State Park, Webster County	35	210
Green Valley State Park, Union County	35	210
Lacey-Keosauqua State Park, Van Buren County	40	240
Lake Darling State Park, Washington County	30	175
Lake of Three Fires State Park, Taylor County	22	120
Lake Wapello State Park, Davis County (except Cabin No. 13)	50	300
Lake Wapello State Park, Davis County (Cabin No. 13)	85	510
Palisades-Kepler State Park, Linn County	30	175
Pine Lake State Park, Hardin County		
Sleeping-area cabins (four-person occupancy limit)	40	240
One-bedroom cabins	55	330
Pleasant Creek State Recreation Area, Linn County	30	175



Springbrook State Park, Guthrie County	22	120
Wilson Island State Recreation Area, Pottawattamie County (No. 1)	18	110
Extra cots, where available	1	

\*Minimum two nights

b. *Yurt rental.* This fee does not include tax. Tax will be calculated at time of final payment.

	<u>Per Night*</u>	<u>Per Week</u>
McIntosh Woods State Park, Cerro Gordo County	\$30	\$175

\*Minimum two nights

c. *Lodge rental per reservation.* This fee does not include tax. Tax will be calculated at time of payment.

	<u>Per Day</u>
A. A. Call State Park, Kossuth County	\$ 70
Backbone State Park Auditorium, Delaware County**	40
Backbone State Park, Delaware County	100
Beed's Lake State Park, Franklin County	55
Bellevue State Park-Nelson Unit, Jackson County	80
Clear Lake State Park, Cerro Gordo County	80
Dolliver Memorial State Park-Central Lodge, Webster County **	40
Dolliver Memorial State Park-South Lodge, Webster County	55
Ft. Defiance State Park, Emmet County	40
George Wyth State Park, Black Hawk County**	50
Gull Point State Park, Dickinson County	100
Lacey-Keosauqua State Park, Van Buren County	60
Lake Ahquabi State Park, Warren County	60
Lake Keomah State Park, Mahaska County	50
Lake Macbride State Park, Johnson County	55
Lake of Three Fires State Park, Taylor County	55
Lake Wapello State Park, Davis County	60
Lewis and Clark State Park, Monona County	40
Palisades-Kepler State Park, Linn County	100
Pine Lake State Park, Hardin County	60
Pleasant Creek Recreation Area, Linn County**	50
Stone State Park, Woodbury/Plymouth Counties	100
Walnut Woods State Park, Polk County	110
Wapsipinicon State Park, Jones County	
Heated year-round lodge	40
Unheated seasonal lodge	30

\*\*Does not contain kitchen facilities

d. Open shelter reservation, \$20 plus applicable tax.

e. Reservation for open shelter with kitchen, \$50 plus applicable tax.

f. Beach house open shelter reservation, \$40 plus applicable tax.

Lake Ahquabi State Park, Warren County

Lake Wapello State Park, Davis County

Pine Lake State Park, Hardin County

Springbrook State Park, Guthrie County

g. Group camp rental. This fee does not include tax.

(1) Dolliver State Park, Webster County, and Springbrook State Park, Guthrie County. Rental includes use of restroom/shower facility at Dolliver.

1. Chaperoned, organized youth groups—\$1.25 per day per person with a minimum charge per day of \$55.

2. Other groups—\$15 per day per cabin plus \$25 per day for the kitchen and dining facility.

(2) Springbrook dining hall—day use only, \$40.

(3) Lake Keomah State Park, Mahaska County.

1. Chaperoned, organized youth groups—\$25 per day for the dining/restroom facility plus the applicable camping fee.

2. Other groups—\$25 per day for the dining/restroom facility plus the applicable camping fee.

**61.4(2) Varying fees.** Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

**61.4(3) Procedures for lodge, open shelter, beach house open shelter, yurt, cabin, and group camp registration, reservations and rentals.**

a. Reservations for all rental facilities must be in the name of a person 18 years of age or older who will be present at the facility for the full term of the reservation.

b. Except for the year-round-use cabins and heated lodges, reservations for the facilities listed in this subrule are to be made only for the current calendar year. For the year-round-use cabins and the heated lodges at Walnut Woods, Wapsipinicon, and Lacey-Keosauqua State Parks, reservations will be accepted starting on November 1 of each year only for the month of January of the next year.

c. Mail-in reservations for the next calendar year received prior to January 1 or November 1, as applicable, will be placed in a box and chosen by random drawing on the first business day following January 1 or November 1.

d. All mail-in requests will be handled on a random-drawing basis daily throughout the calendar year.

e. Telephone and walk-in reservations will not be accepted until the first business day following November 1 of each year for the heated cabins and heated lodges and the first business day after January 1 of each year for all other cabins, yurts, group camps, lodges, open shelters, beach house open shelters, or designated organized youth campsites.

f. Walk-in and telephone requests on the first business day following January 1 or November 1, as applicable, will be handled on a first-come, first-served basis after all mail-in requests have been handled. Walk-in and telephone requests after the first business day following January 1 or November 1 will be handled on a first-come, first-served basis.

g. Except as provided in 61.4(3) "h" and "i," cabin and group camp reservations must be for a minimum of one week (Saturday p.m. to Saturday a.m.). Reservations for more than a two-week stay will not be accepted for any facility. These facilities, if not reserved, may be rented for a minimum of two nights on a walk-in, first-come, first-served basis. No walk-in rentals will be permitted after 6 p.m.

h. After Labor Day week, and prior to the Monday before the national Memorial Day holiday, two-night reservations may be made in advance for cabin use during that time period. Such reservations must be received at least seven days prior to the first night of the desired two-night stay.

i. The sleeping-room cabin at Wilson Island State Recreation Area, the cabins and group camp at Dolliver, the cabins at Pleasant Creek, Green Valley and Lake Darling, the yurts at McIntosh Woods, and the group camp at Springbrook State Park may be reserved for a minimum of two nights throughout the rental season.

j. Persons renting cabins, yurts or group camp facilities must check in at or after 4 p.m. on Saturday. Check-out time is 11 a.m. or earlier on Saturday.

k. Persons renting facilities listed in 61.4(3) "i" must check in at or after 4 p.m. on the first day of the two-night rental period. Check-out time is 11 a.m. or earlier on the last day of the two-night rental period.

*l.* Except by arrangement for late arrival with the park manager, no cabin, yurt or group camp reservation will be held past 6 p.m. on the first night of the reservation period if the person reserving the facility does not arrive. When arrangements for late arrival have been made, the person must appear prior to the park's closing time established by Iowa Code section 461A.46 and subrule 61.5(10) or access will not be permitted to the facility until 8 a.m. the following day. Arrangements must be made with the park manager if next-day arrival is to be later than 9 a.m.

*m.* The number of persons occupying rental cabins is limited to six in cabins which contain one bedroom or less and eight in cabins with two bedrooms. Occupancy of the sleeping-area and camping cabins located at Green Valley State Park, Lake Darling State Park, Pine Lake State Park, Pleasant Creek State Recreation Area and Wilson Island State Recreation Area is limited to four persons. Occupancy of the yurts is limited to four persons.

*n.* Except at Wilson Island State Recreation Area, Dolliver State Park, Pleasant Creek State Recreation Area, Lake Darling State Park, Green Valley State Park and McIntosh Woods State Park, no tents or other camping units are permitted for overnight occupancy in the designated cabin area. Tents or camping units placed in the cabin area are subject to the occupancy requirements of 61.3(5) "b."

*o.* Lodges, open shelters and beach house open shelters may be reserved using the procedures outlined in paragraphs "a" through "f." Lodges, open shelters and beach house open shelters which are not reserved are available on a first-come, first-served basis.

*p.* Except by arrangement with the park manager in charge of the area, persons renting lodge, shelter, and beach house open shelter facilities and all guests shall vacate the facility by 10 p.m.

**61.4(4) Winter season cabin rental—Backbone State Park, Pine Lake State Park and Wilson Island Recreation Area.** Procedures and conditions for winter season cabin rental include the following:

*a.* Procedures for winter season rentals of the heated cabins at Backbone State Park, Pine Lake State Park, and Wilson Island State Recreation Area shall be governed by paragraphs "a" through "f," "h," "i," "m," and "n" of 61.4(3).

*b.* All reservation requests must be for a minimum stay of two nights.

*c.* All reservation requests must be received by the park manager at least two weeks prior to the first night covered by the reservation in order to allow work schedule adjustments for park personnel.

*d.* Unreserved cabins may be rented for a minimum of two nights on a walk-in, first-come, first-served basis. Renters must check in during normal business hours (8 a.m. to 4 p.m.). Check-in will be subject to availability of staff.

*e.* Reservations may not be held past 9 p.m. on the first night of the reservation period if the person reserving the facility does not arrive or make arrangements with the park manager for late arrival. The cabin may be rented on a first-come, first-served basis to another person if the original renter has not arrived or made other arrangements prior to 12 noon of the next day.

**61.4(5) Reservations for handicapped-accessible cabins at Backbone and Pine Lake State Parks.**

*a.* Persons with physical disabilities may make reservations for the four year-round cabins at Backbone State Park and the handicapped-accessible cabin at Pine Lake State Park under the following procedures:

(1) Priority reservations for these facilities will be accepted from October 1 through December 1 at 4:30 p.m., or the closest business day, for the following calendar year only. This may include the full week containing the New Year's Day holiday of that year.

(2) Application for reservations must be on forms furnished by DNR.

(3) Mail-in reservations received between the dates given in subparagraph (1) shall be placed in a box and chosen by random drawing on the first business day following December 1. Walk-in and telephone requests on December 1 or the closest business day will be handled on a first-come, first-served basis without priority considerations.

b. Reservation requests received outside of the above application period will be handled by the procedures given in 61.4(3) "a" through "o."

c. Procedures for rental of the handicapped-accessible cabins shall be governed by paragraphs "a," "g," "h," "j," and "l" through "n" of 61.4(3).

**61.4(6) Reservation and damage deposits for all rental facilities.**

*a. Reservation deposit.*

(1) All cabin, yurt or group camp reservation requests must be accompanied by a reservation deposit equivalent to one day of the daily rate for that rental unit as provided in 61.4(1) "a," "b" or "g." No sales tax shall be included. The deposit shall be required for each rental unit and rental period requested. The reservation deposit will be applied toward the total rental fee when the rental fee is due. Reservations made by telephone will be held for seven working days. If written confirmation and the reservation deposit are not received by the end of the seventh working day, the reservation will be canceled.

(2) Requests for lodge, open shelter, and beach house open shelter rental shall be accompanied by the full rental fee as provided in 61.4(1) "c" through "f," including tax. Reservations made by telephone will be held for seven working days. If written confirmation and the reservation fee are not received by the end of the seventh working day, the reservation will be canceled.

*b. Rental fee and damage deposit payment.*

(1) Upon arrival for the cabin or yurt rental period, renters shall pay in full a damage deposit in the amount of \$50 and the remainder of the applicable rental fee, including all sales tax. This damage deposit shall be paid by use of a separate financial instrument (e.g., check, money order, or cash) from the rental fee.

(2) Upon arrival for the group camp rental period, renters shall pay in full a damage deposit of \$50. The remainder of the applicable rental fee, including all sales tax, shall be paid in full when the rental period is over and the area is ready to be vacated.

(3) Upon arrival for the lodge rental period, renters shall pay in full a damage deposit of \$50.

(4) Damage deposits will be refunded only after authorized personnel inspect the rental facility to ensure that the facility and furnishings are in satisfactory condition.

(5) If it is necessary for department personnel to clean up the facility or repair any damage beyond ordinary wear and tear, a log of the time spent in such cleanup or repair shall be kept. The damage deposit refund shall be reduced by an amount equivalent to the applicable hourly wage of the employees for the time necessary to clean the area or repair the damage and by the cost of any repairs of furnishings.

(6) The deposit is not to be construed as a limit of liability for damage to state property. The department may take legal action necessary to recover additional damages.

(7) Individuals who wish to cancel a reservation must do so at least 30 calendar days prior to the rental date in order to receive a full refund of the reservation deposit or any rental fees paid in advance. If it is necessary to cancel a reservation after the 30-day allowance, a refund may be made only under the following conditions:

1. Inclement weather prohibits arrival at or entrance to the state park cabin, group camp, open shelter, lodge area, beach house open shelter or yurt.

2. Personal emergency prevents arrival or requires departure prior to the end of the rental period. Personal emergency is defined to include a death, serious illness or accident involving immediate family. Rental fees may be refunded on a prorated basis in the case of early departure due to personal emergency.

**61.4(7) Miscellaneous fees.** This fee does not include tax.

	<u>Maximum Fee</u>
Vessel storage space (wet or dry)	
Pontoon boats—eight months or less	\$150
eight months or less (new docks)	200
year-round	200
year-round (new docks)	250
Other boats—eight months or less	125
eight months or less (new docks)	150
year-round	150
year-round (new docks)	200

**571—61.5(461A) Restrictions—area and use.** This rule sets forth conditions of public use which apply to all state parks and recreation areas. These general conditions are subject to exceptions for specific areas as listed in 61.3(6), 61.6(461A) and 61.9(461A). The conditions in this rule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

**61.5(1) Animals.**

- a. The use of equine animals and llamas is limited to roadways or to trails designated for such use.
- b. Animals are prohibited within designated beach areas.
- c. Livestock are not permitted to graze or roam within state parks and recreation areas. The owner of the livestock shall remove the livestock immediately upon notification by the department of natural resources personnel in charge of the area.
- d. Except for dogs being used in designated hunting or in dog training areas, pets such as dogs or cats shall not be allowed to run at large within state parks, recreation areas, and preserves. Such animals shall be on a leash or chain not to exceed six feet in length and shall be either led by or carried by the owner, attached to an anchor/tie out or vehicle, or confined in a vehicle.

**61.5(2) Beach use/swimming.**

- a. Except as provided in paragraphs “b” and “d” of this subrule, all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state park and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.
- b. Persons may scuba dive in areas other than the designated beach area provided they display the diver’s flag as specified in rule 571—41.10(462A).
- c. The provisions of paragraph “a” of this subrule shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.
- d. Unless otherwise posted, persons may swim outside the beach area under the following conditions:
  - (1) Within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach.
  - (2) Sailboat or other vessel passengers who enter the water to upright or repair their vessel and remain within ten feet of that vessel.
  - (3) All vessels, except those being uprighted, must be attended at all times by at least one person remaining on board.

**61.5(3) Bottles.** Possession or use of breakable containers, the fragmented parts of which can injure a person, is prohibited in beach areas of state parks and recreation areas.

**61.5(4) Chainsaws.** Except by written permission of the director of the department of natural resources, chainsaw use is prohibited in state parks and recreation areas. This provision is not applicable to employees of the department of natural resources in the performance of their official duties.

**61.5(5) Firearms.** The use of firearms in state parks and recreation areas, as defined in 61.2(461A), is limited to the following:

a. Lawful hunting as traditionally provided at Badger Creek Recreation Area, Brushy Creek Recreation Area, Pleasant Creek Recreation Area, Volga River Recreation Area and Wilson Island Recreation Area.

b. Target and practice shooting in areas designated by DNR.

c. Special events, festivals, and education programs sponsored or permitted by DNR.

d. Special hunts authorized by the natural resource commission to control animal population.

**61.5(6) Fishing off boat docks within state areas.** Persons may fish off all state-owned docks within state parks and recreation areas. Persons fishing off these docks must yield to boats and not interfere with boaters. Willful interference is a violation of this subrule.

**61.5(7) Garbage.** Using government refuse receptacles for dumping household, commercial, or industrial refuse brought as such from private property is prohibited.

**61.5(8) Motor vehicle restrictions.**

a. Except as provided in these rules, motor vehicles are prohibited on state parks, recreation areas and preserves except on constructed and designated roads, parking lots and campgrounds.

b. Persons with physical disabilities. Persons with physical disabilities may use certain motor vehicles on state parks, recreation areas and preserves, according to restrictions set out in this paragraph, in order that they might enjoy such recreational opportunities as are available to others.

(1) Definition. For purposes of this subrule, the following definition shall apply. "Motor vehicle" means any self-propelled vehicle, electric or gas, having at least three wheels, but no more than six, and that is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 1,450 pounds.

(2) Permits.

1. Each person with a physical disability must have a permit issued by the director in order to use motor vehicles on state parks, recreation areas, and preserves. Such permits will be issued without charge. An applicant must submit a certificate from a doctor stating that the applicant meets the criteria describing a person with a physical disability. One nonhandicapped companion may accompany the permit holder on the same vehicle if that vehicle is designed for more than one rider; otherwise the companion must walk.

2. Existing permits. Those persons possessing a valid permit for use of a motorized vehicle on game management areas as provided in 571—51.7(461A) may use a motor vehicle to gain access to recreational opportunities and facilities within state parks, recreation areas and preserves.

(3) Approved areas. A permit holder must contact the park manager or natural resource technician of the specific area that the permit holder wishes to use on each visit. The park manager or technician will determine which areas or portions of areas will not be open to use by permittees, in order to protect permittees from hazards or to protect certain natural resources of the area. The park manager or technician may assist by arranging access to the areas within the park manager's or technician's jurisdiction and by designating specific sites or trails on the area where the motor vehicle may be used and where it may not be used. The park manager or technician will provide a map of the park or recreation area showing sites where use is permitted and bearing the signature of the manager or technician. Approval for use of a motor vehicle on state preserves also requires consultation with a member of the preserves staff in Des Moines.

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

(5) Prohibited acts and restrictions.

1. Except as provided in 61.5(8)“a,” the use of a motor vehicle on any park, recreation area or preserve by a person without a valid permit or at any site not approved on a signed map is prohibited. Permits and maps must be carried by the permittee at any time the permittee is using a motor vehicle on a park, recreation area or preserve and must be exhibited to any department employee or law enforcement official upon request.

2. The speed limit for an approved motor vehicle off roadways will be no more than 5 mph. The permit of a person who is found exceeding the speed limit will be revoked.

3. The permit of any person who is found causing damage to cultural and natural features or abusing the privilege of riding off-road within the park will be revoked.

(6) Employees exempt. Restrictions in subrule 61.5(8) shall not apply to department personnel, law enforcement officials, or other authorized persons engaged in research, management or enforcement when in performance of their duties.

**61.5(9) Noise.** Creating or sustaining any unreasonable noise in any portion of all state parks and recreation areas is prohibited at all times. The nature and purpose of a person’s conduct, the impact on other area users, the time of day, location, and other factors which would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. This shall include the operation or utilization of motorized equipment or machinery such as an electric generator, motor vehicle, or motorized toy; or audio device such as a radio, television set, tape deck, public address system, or musical instrument; or other device causing unreasonable noise. Between the hours of 10:30 p.m. and 6 a.m., noise which can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

**61.5(10) Opening and closing times.** Except by arrangement or permission granted by the director or the director’s authorized representative or as otherwise stated in this chapter, the following restrictions shall apply: All persons shall vacate all state parks before 10:30 p.m., each day, except authorized campers in accordance with Iowa Code section 461A.46, and no person or persons shall enter into such parks and preserves until 4 a.m. the following day.

**61.5(11) Paintball guns.** The use of any item generally referred to as a paintball gun is prohibited in state parks, recreation areas and preserves.

**61.5(12) Restrictions on picnic site use.**

a. Open picnic sites marked with the international symbol of accessibility shall be used only by a person or group with a person qualifying for and displaying a persons with disabilities parking permit on the person’s vehicle.

b. Paragraph 61.5(12)“a” does not apply to picnic shelters marked with the international accessibility symbol. The use of the symbol on shelters shall serve only as an indication that the shelter is wheelchair accessible.

**61.5(13) Rock climbing or rappelling.** The rock climbing practice known as free climbing and climbing or rappelling activities which utilize bolts, pitons, or similar permanent anchoring equipment or ropes, harnesses, or slings is prohibited in state parks and recreation areas, except by persons or groups registered with the park manager or technician in charge of the area. Individual members of a group must each sign a registration. Climbing or rappelling will not be permitted at the Ledges State Park, Boone County; Dolliver State Park, Webster County; Stone State Park, Woodbury and Plymouth Counties; Wildcat Den State Park, Muscatine County; or Mines of Spain Recreation Area, Dubuque County. Other sites may be closed to climbing or rappelling if environmental damage or safety problems occur or if an endangered or threatened species is present.

**61.5(14) Speech or conduct unreasonably interfering with lawful use of an area by others.**

a. Unprovoked speech commonly perceived as offensive or abusive is prohibited when such speech unreasonably interferes with lawful use and enjoyment of the area by another member of the public.

b. Quarreling or fighting is prohibited when it unreasonably interferes with the lawful use and enjoyment of the area by another member of the public.

**571—61.6(461A) Certain conditions of public use applicable to specific parks and recreation areas.** Notwithstanding the general conditions of public use set forth in 61.3(5) and 61.5(461A), special conditions shall apply to the specific areas listed as follows:

**61.6(1) *Hattie Elston Access and Claire Wilson Park, Dickinson County.***

- a. Except as provided in 61.9(461A), these areas are closed to public access from 10:30 p.m. to 4 a.m.
- b. Parking of vehicles of any type on these areas is prohibited unless the vehicle operator and occupants are actively using the area for fishing or other recreational purposes.
- c. Overnight camping is prohibited.

**61.6(2) *Pleasant Creek Recreation Area, Linn County.*** Swimming is limited by the provisions of 61.5(2); also, swimming is prohibited at the beach from 10:30 p.m. to 6 a.m. daily. Access into and out of the north portion of the area between the east end of the dam to the campground shall be closed from 10:30 p.m. to 4 a.m., except that walk-in overnight fishing will be allowed along the dam. The areas known as the dog trial area and the equestrian area shall be closed from 10:30 p.m. to 4 a.m., except for equestrian camping and for those persons participating in a DNR-authorized field trial. From 10:30 p.m. to 4 a.m., only registered campers are permitted in the campground.

**61.6(3) *Wapsipinicon State Park, Jones County.*** The recreation area portion of the park is closed to the public from 10:30 p.m. to 4 a.m.

**571—61.7(461A) Mines of Spain hunting, trapping and firearms use.**

**61.7(1)** The following described portions of the Mines of Spain Recreation Area are established and will be posted as wildlife refuges:

- a. That portion within the city limits of the city of Dubuque located west of U.S. Highway 61 and north of Mar Jo Hills Road.
- b. The tract leased by the department of natural resources from the city of Dubuque upon which the E. B. Lyons Interpretive Center is located.
- c. That portion located south of the north line of Section 8, Township 88 North, Range 3 East of the 5th P.M. between the west property boundary and the east line of said Section 8.
- d. That portion located north of Catfish Creek, east of the Mines of Spain Road and south of the railroad tracks. This portion contains the Julien Dubuque Monument.

**61.7(2)** Trapping and archery hunting for all legal species are permitted in compliance with all open-season, license and possession limits on the Mines of Spain Recreation Area except in those areas designated as refuges by subrule 61.7(1).

**61.7(3)** Firearm use is prohibited in the following described areas:

- a. The areas described in subrule 61.7(1).
- b. The area north and west of Catfish Creek and west of Granger Creek.

**61.7(4)** Deer hunting and hunting for all other species are permitted using shotguns only and are permitted only during the regular gun season as established by 571—Chapter 106. Areas not described in 61.7(3) are open for hunting. Hunting shall be in compliance with all other regulations.

**61.7(5)** Turkey hunting with shotguns is allowed only in compliance with the following regulations:

- a. Only during the first shotgun hunting season established in 571—Chapter 98, which is typically four days in mid-April.
- b. Only in that area of the Mines of Spain Recreation Area located east of the newly established roadway and south of the Horseshoe Bluff quarry.

**61.7(6)** The use or possession of a handgun or any type of rifle is prohibited on the entire Mines of Spain Recreation Area except as provided in 61.7(4). Target and practice shooting with any type of firearm is prohibited.

**61.7(7)** All forms of hunting, trapping and firearms use not specifically permitted by 61.7(461A) are prohibited on the Mines of Spain Recreation Area.



**571—61.8(461A) After-hours fishing—exception to closing time.** Persons shall be allowed access to the areas designated in 61.9(461A) between the hours of 10:30 p.m. and 4 a.m. under the following conditions:

1. The person is to be actively engaged in fishing.
2. The person shall behave in a quiet, courteous manner so as to not disturb other users of the park such as campers.
3. Access to the fishing site from the parking area shall be by the shortest and most direct trail or access facility.
4. Vehicle parking shall be in the lots designated by signs posted in the area.
5. Activities other than fishing are allowed with permission of the director or an employee designated by the director.

**571—61.9(461A) Designated areas for after-hours fishing.** Areas which are open from 10 p.m. to 4 a.m. are shown on maps available from the department of natural resources. The areas are described as follows:

**61.9(1) Black Hawk Lake, Sac County.** The area of the state park between the road and the lake running from the marina at Drillings Point on the northeast end of the lake approximately three-fourths of a mile in a southwesterly direction to a point where the park boundary decreases to include only the roadway.

**61.9(2) Bobwhite State Park, Wayne County.** Both sides of the east-west causeway embankment on County Road J46 from the parking lot on the west end of the causeway to a point approximately 300 feet east of the causeway bridge.

**61.9(3) Claire Wilson Park, Dickinson County.** The entire area including the parking lot, shoreline and fishing trestle facility.

**61.9(4) Elinor Bedell State Park, Dickinson County.** The entire length of the shoreline within state park boundaries.

**61.9(5) Green Valley Lake, Union County.**

a. The embankment of the road from the small parking area east of the park ranger's residence east to the "T" intersection and south to the westerly end of a point of land jutting into the lake directly south of the parking lot mentioned above.

b. From the east side of the spillway easterly across the dam to the west edge of the parking lot.

**61.9(6) Hattie Elston Access, Dickinson County.** The entire area including the parking lot shoreline and boat ramp facilities.

**61.9(7) Honey Creek State Park, Appanoose County.** The boat ramp area located north of the park office, access to which is the first road to the left upon entering the park.

**61.9(8) Lake Geode State Park, Des Moines County portion.** The area of the dam embankment between the county road and the lake as shown on the map.

**61.9(9) Lake Keomah State Park, Mahaska County.**

a. The embankment of the dam between the crest of the dam and the lake.

b. The shoreline between the road and the lake from the south boat launch area west and north to the junction with the road leading to the group camp shelter.

**61.9(10) Lake Macbride State Park, Johnson County.** The shoreline of the south arm of the lake adjacent to the county road commencing at the "T" intersection of the roads at the north end of the north-south causeway proceeding across the causeway thence southeasterly along a foot trail to the east-west causeway, across the causeway to the parking area on the east end of that causeway.

**61.9(11) Lake Manawa State Park, Pottawattamie County.** The west shoreline including both sides of the main park road, commencing at the north park entrance and continuing south 1.5 miles to the parking lot immediately north of the picnic area known as "Boy Scout Island."

**61.9(12) Lower Pine Lake, Hardin County.** West shoreline along Hardin County Road S56 from the beach southerly to the boat ramp access.

**61.9(13) *Mini-Wakan State Park, Dickinson County.*** The entire area.

**61.9(14) *North Twin Lake State Park, Calhoun County.*** The shoreline of the large day-use area containing the swimming beach on the east shore of the lake.

**61.9(15) *Pikes Point State Park, Dickinson County.*** The shoreline areas of Pikes Point State Park on the east side of West Okoboji Lake.

**61.9(16) *Prairie Rose State Park, Shelby County.*** The west side of the embankment of the causeway across the southeast arm of the lake including the shoreline west of the parking area to its junction with the road leading toward the park ranger residence.

**61.9(17) *Rock Creek Lake, Jasper County.*** Both sides of the County Road F27 causeway across the main north portion of the lake.

**61.9(18) *Union Grove State Park, Tama County.***

*a.* The dam embankment from the spillway to a line parallel with the west end of the parking lot adjacent to the dam.

*b.* The area of state park between the county road and the lake along the west shoreline from the causeway on the north end of the lake to the southerly end of the arm of the lake that extends southwesterly of the main water body.

**61.9(19) *Upper Pine Lake, Hardin County.*** Southwest shoreline extending from the boat launch ramp to the dam.

**61.9(20) *Viking Lake State Park, Montgomery County.*** The embankment of the dam from the parking area located southeast of the dam area northwesterly across the dam structure to its intersection with the natural shoreline of the lake.

**571—61.10(461A) *Vessels prohibited.*** Rule 61.9(461A) does not permit the use of vessels on the artificial lakes within state parks after the 10:30 p.m. park closing time. All fishing is to be done from the bank or shoreline of the permitted area.

**571—61.11(461A) *Severability.*** Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

**571—61.12(461A) *Restore the outdoors program.*** Funding provided through the appropriation made by 1997 Iowa Acts, chapter 215, and subsequent Acts, shall be used to renovate, replace or construct new vertical infrastructure and associated appurtenances in state parks and other public facilities managed by the department of natural resources.

The intended projects will be included in the department's annual five-year capital plan in priority order by year and approved by the natural resource commission for inclusion in its capital budget request.

The funds appropriated by 1997 Iowa Acts, chapter 215, section 37, and subsequent Acts, will be used to renovate, replace or construct new vertical infrastructure through construction contracts, agreements with local government entities responsible for managing state parks and other public facilities, and agreements with the department of corrections to use inmate labor where possible. Funds shall also be used to support site survey, design and construction contract management through consulting engineering and architectural firms and for direct survey, design and construction management costs incurred by department engineering and architectural staff for restore the outdoors projects. Funds shall not be used to support general department oversight of the restore the outdoors program, such as accounting, general administration or long-range planning.

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and Iowa Code chapter 724.

[Filed 9/14/65]

[Filed 5/5/78, Notice 3/8/78—published 5/31/78, effective 7/6/78]

[Filed 7/13/82, Notice 4/28/82—published 8/4/82, effective 9/8/82]

[Filed 4/7/83, Notice 2/2/83—published 4/27/83, effective 6/1/83]

[Filed 11/4/83, Notice 9/28/83—published 11/23/83, effective 12/28/83]

[Filed 2/6/84, Notice 12/21/83—published 2/29/84, effective 4/5/84]

[Filed 4/5/85, Notice 1/30/85—published 4/24/85, effective 5/30/85]

[Filed 5/8/85, Notice 1/30/85—published 6/5/85, effective 7/10/85]

[Filed emergency 5/31/85—published 6/19/85, effective 7/1/85]

[Filed emergency 6/11/86—published 7/2/86, effective 6/13/86]

[Filed 10/17/86, Notice 7/2/86—published 11/5/86, effective 12/10/86]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

[Filed 3/20/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]

[Filed 10/16/87, Notice 8/26/87—published 11/4/87, effective 2/3/88]

[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]

[Filed 3/15/91, Notices 10/3/90, 12/26/90—published 4/3/91, effective 5/8/91]

[Filed 6/7/91, Notice 4/3/91—published 6/26/91, effective 7/31/91]\*

[Filed emergency 10/4/91 after Notice 8/7/91—published 10/30/91, effective 10/4/91]

[Filed 3/13/92, Notice 12/25/91—published 4/1/92, effective 5/6/92]

[Filed 5/8/92, Notice 4/1/92—published 5/27/92, effective 7/1/92]\*\*

[Filed emergency 8/7/92—published 9/2/92, effective 8/7/92]

[Filed 12/4/92, Notice 9/30/92—published 12/23/92, effective 1/27/93]

[Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 1/1/94]\*\*\*

[Filed 8/12/94, Notice 6/8/94—published 8/31/94, effective 10/5/94]

[Filed 9/9/94, Notice 7/6/94—published 9/28/94, effective 11/2/94]

[Filed emergency 10/27/94—published 11/23/94, effective 10/27/94]

[Filed emergency 2/9/95—published 3/1/95, effective 2/10/95]

[Filed 5/15/95, Notice 3/1/95—published 6/7/95, effective 7/12/95]

[Filed 10/20/95, Notice 8/30/95—published 11/8/95, effective 12/13/95]

[Filed 8/9/96, Notice 6/5/96—published 8/28/96, effective 10/2/96]

[Filed 8/9/96, Notice 7/3/96—published 8/28/96, effective 10/2/96]

[Filed without Notice 10/18/96—published 11/6/96, effective 1/1/97]

[Filed 2/21/97, Notice 1/1/97—published 3/12/97, effective 4/16/97]

[Filed 8/22/97, Notice 6/4/97—published 9/10/97, effective 10/15/97]

[Filed 2/20/98, Notice 12/31/97—published 3/11/98, effective 4/15/98]

[Filed emergency 5/29/98—published 6/17/98, effective 5/29/98]

[Filed 8/21/98, Notice 6/17/98—published 9/9/98, effective 10/14/98]

[Filed emergency 12/11/98 after Notice 11/4/98—published 12/30/98, effective 1/1/99]

[Filed 8/20/99, Notice 6/30/99—published 9/8/99, effective 10/13/99]

[Filed emergency 12/10/99 after Notice 11/3/99—published 12/29/99, effective 1/1/00]

[Filed 11/13/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]

\*Effective date of subrule 61.6(2) and rule 61.7(7/31/91) delayed 70 days by the Administrative Rules Review Committee at its meeting held 7/12/91.

\*\*Amendments to 61.4(2)"f" and 61.3(5)"a" effective January 1, 1993.

\*\*\*Amendments to 61.4(2)"a" to "d" effective October 31, 1993.

∇Two ARCs



**81.2(5) *Special trout regulations.*** A 14-inch minimum length limit shall apply on brown trout, rainbow trout, and brook trout in Spring Branch Creek, Delaware County, from the spring source to County Highway D5X as posted, and on brown trout only in portions of Bloody Run Creek, Clayton County, where posted. All trout caught from the posted portion of Waterloo Creek, Allamakee County, Hewitt and Ensign Creeks (Ensign Hollow), Clayton County, and South Pine Creek, Winneshiek County, and all brown trout caught from French Creek, Allamakee County, must be immediately released alive. Fishing in the posted area of Spring Branch Creek, Bloody Run Creek, Waterloo Creek, Hewitt and Ensign Creeks (Ensign Hollow), South Pine Creek, and French Creek shall be by artificial lure only. Artificial lure means lures that do not contain or have applied to them any natural or synthetic substances designed to attract fish by the sense of taste or smell.

**81.2(6) *Exception border lakes.*** In Little Spirit Lake, Dickinson County; Iowa and Tuttle (Okamanpedan) Lakes, Emmet County; Burt (Swag) Lake, Kossuth County; and Iowa Lake, Osceola County, the following shall apply:

- a. Walleye daily bag and possession limit six;
- b. Northern pike daily bag and possession limit three;
- c. Largemouth and smallmouth bass daily bag and possession limit six;
- d. Channel catfish daily bag and possession limit eight. Open season on the above fish shall be the Saturday nearest May 1 to February 15 each year.
- e. Yellow perch, white bass, and sunfish daily bag and possession limit 30, and crappie daily bag and possession limit 15. There is a continuous open season on these species.
- f. Spears and bow and arrow may be used to take carp, buffalo, dogfish, gar, sheepshead, and carpsucker from sunrise to sunset during the period from the first Saturday in May to February 15 each year in the above lakes.

**81.2(7) *DeSoto Bend Lake.*** All fishers shall conform with federal refuge regulations as posted under the authority of Section 33.19 of Title 50 CFR. The text of the rules will be contained on the signs as posted.

**81.2(8) *General restriction.*** Anglers must comply with the most restrictive set of regulations applicable to the water on which they are fishing. Where length limits apply, fish less than the legal length must be immediately released into the water from which they were caught.

**81.2(9) *Catfish.*** For the purpose of this rule, stream catfish bag and possession limits apply at the federal flood control impoundments of Rathbun Lake, Red Rock Lake, Saylorville Lake, and Coralville Lake.

**81.2(10) *Identification of catch.*** No person shall transport or possess on any waters of the state any fish unless (a) the species of any such fish can be readily identified and a portion of the skin (at least 1 square inch) including scales is left on all fish or fillets and (b) the length of fish can be determined when length limits apply. "On any waters of the state" includes from the bank or shoreline in addition to wading and by boat.

**81.2(11) *Method of take.*** Artificial light may be used in the taking of any fish. The following species of fish may be taken by hand fishing, snagging, spearing, and bow and arrow: common carp, big-head carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback carpsucker, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, sheepshead, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. A fish is foul hooked when caught by a hook in an area other than in the fish's mouth. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of foul hooking fish. Exceptions to snagging as a method of take are as follows:

No snagging is permitted in the following areas:

1. Des Moines River from directly below Saylorville Dam to the Southeast 14th Street bridge in Des Moines.
2. Cedar River in Cedar Rapids from directly below the 5 in 1 Dam under I-380 to the 1st Avenue bridge.
3. Cedar River in Cedar Rapids from directly below the "C" Street Roller Dam to 300 yards downstream.
4. Iowa River from directly below the Coralville Dam to 300 yards downstream.
5. Chariton River from directly below Lake Rathbun Dam to 300 yards downstream.
6. Spillway area from directly below the Spirit Lake outlet to the confluence at East Okoboji Lake.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76.

- [Filed emergency 1/9/76—published 1/26/76, effective 1/9/76]
- [Filed 2/1/77, Notice 12/15/76—published 2/23/77, effective 3/30/77]
- [Filed emergency 1/13/78—published 2/8/78, effective 1/13/78]
- [Filed 3/15/78, Notice 2/8/78—published 4/5/78, effective 5/10/78]
- [Filed 1/9/79, Notice 11/29/78—published 2/7/79, effective 3/14/79]
- [Filed 10/10/79, Notice 9/5/79—published 10/31/79, effective 1/1/80]
- [Filed 10/8/80, Notice 9/3/80—published 10/29/80, effective 1/1/81]
- [Filed 10/7/81, Notice 8/5/81—published 10/28/81, effective 1/1/82]
- [Filed 10/7/82, Notice 9/1/82—published 10/27/82, effective 1/1/83]
- [Filed 11/4/83, Notice 9/28/83—published 11/23/83, effective 1/1/84]
- [Filed 10/5/84, Notice 8/29/84—published 10/24/84, effective 1/1/85]
- [Filed 10/4/85, Notice 7/31/85—published 10/23/85, effective 1/1/86]
- [Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
- [Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
- [Filed 10/16/87, Notice 8/26/87—published 11/4/87, effective 1/1/88]
- [Filed 10/14/88, Notice 8/24/88—published 11/2/88, effective 1/1/89]
- [Filed 9/15/89, Notice 7/26/89—published 10/4/89, effective 1/1/90]
- [Filed emergency 12/7/90 after Notice 10/3/90—published 12/26/90, effective 1/1/91]
- [Filed 11/8/91, Notice 8/21/91—published 11/27/91, effective 1/1/92]
- [Filed 11/6/92, Notice 9/2/92—published 11/25/92, effective 1/1/93]
- [Filed 11/5/93, Notice 9/1/93—published 11/24/93, effective 12/29/93]
- [Filed 10/20/95, Notice 8/30/95—published 11/8/95, effective 12/13/95]
- [Filed 11/15/96, Notice 8/28/96—published 12/4/96, effective 1/10/97]
- [Filed 11/14/97, Notice 9/10/97—published 12/3/97, effective 1/7/98]
- [Filed 11/12/99, Notice 9/8/99—published 12/1/99, effective 1/5/00]
- [Filed 11/13/00, Notice 9/6/00—published 11/29/00, effective 1/3/01]

CHAPTER 98  
WILD TURKEY SPRING HUNTING  
[Prior to 12/31/86, Conservation Commission[290] Ch 111]

RESIDENT WILD TURKEY SPRING HUNTING

**571—98.1(481A) General.** Wild turkey may be taken during the spring season subject to the following rules:

**98.1(1) License.** All hunters must have in possession a spring wild turkey hunting license valid for the current year when hunting wild turkey. No one, while hunting wild turkey, shall carry or have in possession any license or transportation tag issued to another hunter. A hunter having a license valid for one of the spring turkey hunting periods may accompany, call for, or otherwise assist any other hunter who has a valid turkey hunting license for any of the spring hunting periods in any zone, except that the hunter doing the assisting may not shoot a turkey or carry a firearm or bow unless the hunter has a valid license with an unused tag for the current season and zone. If a turkey is taken, it must be tagged with the tag issued to the hunter who shot the turkey. Two types of licenses will be issued.

*a.* Combination shotgun-or-archery licenses will be issued by zone and period and will be valid in the designated zone and for the designated period only. No one shall apply for or obtain more than two combination shotgun-or-archery licenses. If two licenses are obtained, one must be for hunting period four in Zone 4. Hunters who obtain one or two combination shotgun-or-archery licenses, whether free or paid, may not apply for or obtain an archery-only license.

*b.* Archery-only licenses will be valid statewide and shall be valid during all hunting periods open for spring turkey hunting. No one may apply for or obtain more than two archery-only licenses. Hunters purchasing one or two archery-only licenses, whether free or paid, may not apply for or obtain a combination shotgun-or-archery license.

**98.1(2) Daily bag and possession limits.** Daily bag limit, one bearded (or male) wild turkey. Possession limit and season limit, one bearded (or male) wild turkey per license.

**98.1(3) Shooting hours.** Shooting hours shall be from one-half hour before sunrise to sunset.

**571—98.2(481A) Method of take.**

**98.2(1) Permitted weapons.** Wild turkey may be taken in accordance with the type of license issued as follows:

*a.* **Combination shotgun-or-archery license.** Wild turkey may be taken by shotgun or muzzle-loading shotgun not smaller than 20-gauge and shooting only shot sizes 2 or 3 nontoxic shot or 4, 5, 6, 7½, or 8 lead or nontoxic shot; and by longbow, recurve or compound bow shooting broadhead or blunthead (minimum diameter 9/16 inch) arrows only. No person may have shotshells containing shot of any size other than 2 or 3 nontoxic shot or 4, 5, 6, 7½, or 8 lead or nontoxic shot on their person while hunting wild turkey.

*b.* **Archery-only license.** Wild turkey may be taken by longbow, recurve or compound bow shooting broadhead or blunthead (minimum diameter 9/16 inch) arrows only.

**98.2(2) Prohibited devices.** The use of live decoys, dogs, horses, motorized vehicles, aircraft, bait, crossbows, except as otherwise provided, and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord.

**98.2(3) Zones.** Persons with a spring turkey hunting license may take wild turkey in designated areas in accordance with the type of license issued. Persons with an archery-only license may take wild turkey statewide. Persons with a combination shotgun-or-archery license may take wild turkey in one of four zones described as follows:

a. **Zone 1.** Zone 1 is all units of Stephens State Forest west of U.S. Highway 65 in Clarke and Lucas counties only.

b. **Zone 2.** Zone 2 is Shimek State Forest in Lee and Van Buren counties only.

c. **Zone 3.** Zone 3 is Yellow River State Forest in Allamakee county only.

d. **Zone 4.** Zone 4 is all of Iowa except for those areas described by Zones 1, 2 and 3.

**98.2(4) Exceptions.** Rescinded IAB 12/1/99, effective 1/5/00.

**98.2(5) Hunting periods.** Hunting periods will be established in accordance with the type of license issued.

a. **Combination shotgun-or-archery licenses.** Consecutive hunting periods are 4, 5, 7, and 19 days, respectively, with the first hunting period beginning on the Monday closest to April 13.

b. **Archery-only licenses.** The hunting period shall be 35 days beginning on the Monday closest to April 13.

**571—98.3(481A) Procedures to obtain licenses.** All spring wild turkey hunting licenses will be sold or may be applied for using the electronic licensing system for Iowa (ELSI). Licenses and license applications may be purchased through ELSI license agents or by calling the ELSI telephone ordering system.

**98.3(1) Licenses with quotas.** All licenses for zone and season combinations that have license quotas, as specified in subrule 98.3(3), will be issued through a random drawing. Applications for these licenses may be purchased through ELSI beginning the first Saturday after January 1 through the last Sunday in January. No one may submit more than one application during the application period. If applications have been sold in excess of the license quota for any zone or hunting period, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any license quota has not been filled, the excess licenses will be sold on a first-come, first-served basis through ELSI beginning the second Saturday after the close of the application period and continuing until the quota has been filled or until the last day of the hunting period for which that license is valid, whichever occurs first. No one may obtain more than one limited-quota license.

**98.3(2) Licenses that do not have quotas.** Spring wild turkey hunting licenses that are not subject to a quota will be sold beginning the second Saturday after the close of the initial application period through the last day of the hunting period for which the license is valid.

**98.3(3) License quotas.** Separate quotas will be established for each license type.

a. **Combination shotgun-or-archery licenses.** A limited number of combination shotgun-or-archery hunting licenses will be issued for each hunting period in Zones 1, 2 and 3. There shall be no limit on combination shotgun-or-archery licenses in any hunting period in Zone 4. The same quota shall apply to Zones 1, 2 and 3 in all four hunting periods. The maximum number of combination shotgun-or-archery licenses that will be issued in each zone for each hunting period is as follows:

(1) Zone 1. 65.

(2) Zone 2. 125.

(3) Zone 3. 80.

(4) Zone 4. No limit.

b. **Archery-only licenses.** The number of archery-only licenses shall not be limited.



**98.3(4) Landowner-tenant licenses.** An eligible landowner or tenant may obtain a free combination shotgun-or-archery license or a free archery-only license. Nonresident landowners are not eligible for free turkey hunting licenses.

*a. Free combination shotgun-or-archery licenses.* Free combination shotgun-or-archery licenses will be issued by hunting period and will be valid only on the farm unit of the landowner or tenant. One paid combination shotgun-or-archery license may be obtained in addition to the free license, but at least one of these licenses (paid or free) must be for hunting period four in Zone 4.

*b. Free archery-only licenses.* Free archery-only licenses will be valid for all hunting periods but only on the farm unit of the landowner or tenant.

**571—98.4(481A) 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 in such a manner that the tag cannot be removed without mutilating or destroying the tag before the carcass can be transported from the place of kill. The tag shall be proof of possession of the carcass by above-mentioned licensee.

**571—98.5(481A) Harvest reporting system.** A harvest report card will be attached to each transportation tag. Each hunter that bags a wild turkey must fill out and sign the harvest report card after the transportation tag is attached to the turkey. The completed harvest report card must be taken to any ELSI license agent within 48 hours of tagging the turkey. The license agent will enter the harvest report information into the ELSI terminal and print out a harvest verification tag. The verification tag must be placed on the turkey and remain there until the turkey is processed for consumption. A wild turkey carcass or part of a carcass may not be taken to a locker plant for processing unless the proper verification tag is attached.

Rules 98.1(481A) to 98.5(481A) are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, and 483A.7.

**571—98.6 to 98.9** Reserved.

#### NONRESIDENT WILD TURKEY SPRING HUNTING

**571—98.10(483A) General.** Wild turkey may be taken during the spring season subject to the following:

**98.10(1) License.** All hunters must have in possession a valid nonresident spring wild turkey hunting license and show proof they have paid the current year's habitat fee when hunting wild turkey. No one, while hunting turkey, shall carry or have in possession any license or transportation tag issued to another hunter. Licenses will be issued by zone and period and will be valid in the designated zone and period only. No one shall obtain more than one nonresident spring wild turkey hunting license.

**98.10(2) Seasons.** Bearded (or male) wild turkey may be taken only by the use of shotguns, muzzleloading shotguns, and bow and arrow during the first, third or fourth hunting periods as defined in 98.2(5), paragraph "a." No nonresident hunting licenses will be issued for the second hunting period.

**98.10(3) Daily, possession and season limits.** The daily bag limit is one bearded (or male) wild turkey; the possession and season limit is one bearded (or male) wild turkey.

**98.10(4) Shooting hours.** Shooting hours shall be from one-half hour before sunrise to sunset each day.

**571—98.11(483A) Zones open to hunting.** Licenses will be valid only in designated areas as follows:

1. **Zone 1.** Zone 1 is all units of Stephens State Forest in Clarke and Lucas counties west of U.S. Highway 65.
2. **Zone 2.** Zone 2 is the Shimek State Forest in Lee and Van Buren counties only.
3. **Zone 3.** Zone 3 is the Yellow River Forest in Allamakee county only.
4. **Zone 4.** Zone 4 is that portion of Iowa bounded on the north by Interstate Highway 80 and on the west by U.S. Highway 59, with the exception of the areas described as Zone 1 and Zone 2.
5. **Zone 5.** Zone 5 is that portion of Iowa bounded on the north by U.S. Highway 20 and on the east by U.S. Highway 59.
6. **Zone 6.** Zone 6 is that portion of Iowa lying east of U.S. Highway 63 and north of Interstate Highway 80, with the exception of that area described as Zone 3.
7. **Zone 7.** Zone 7 is that portion of Iowa bounded on the north by U.S. Highway 20, on the west by U.S. Highway 59, on the south by Interstate Highway 80, and on the east by U.S. Highway 63.

**571—98.12(483A) License quotas.** A limited number of wild turkey hunting licenses will be issued in each zone in each season as follows:

1. **Zone 1.** Closed.
2. **Zone 2.** Closed.
3. **Zone 3.** Closed.
4. **Zone 4.** 325.
5. **Zone 5.** 95.
6. **Zone 6.** 200.
7. **Zone 7.** 46.

**571—98.13(483A) Means and method of take.**

**98.13(1) Permitted weapons.** Wild turkey may be taken only with shotguns and muzzleloading shotguns not smaller than 20-gauge and shooting shot sizes 4, 5, 6, 7½, and 8 only; or with recurve, compound or longbows with broadhead or blunthead (minimum diameter 9/16 inch) arrows only. No person may have shotshells containing shot of any size other than 4, 5, 6, 7½, or 8 on their person while hunting wild turkey.

**98.13(2) Prohibited devices.** The use of live decoys, dogs, horses, motorized vehicles, aircraft, bait, crossbows, except as otherwise provided, and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord.

**571—98.14(483A) Application procedure.** Applications for nonresident spring wild turkey hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone order system. Applications will be accepted from the first Saturday after January 1 through the last Sunday in January. No one may submit more than one application during the application period. If applications have been sold in excess of the license quota for any zone or hunting period, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any license quota has not been filled, the excess licenses will be sold on a first-come, first-served basis through the telephone ordering system beginning the second Saturday after the close of the application period and lasting until the quota has been filled or the last day of the hunting period for which the license is valid, whichever occurs first. No one may obtain more than one nonresident spring wild turkey hunting license. Hunters may apply individually or as a group of up to 15 applicants. All members of a group will be accepted or rejected as a group in the drawing. If a group is rejected, members of that group may purchase licenses individually if excess licenses are available.

Each individual applicant that is unsuccessful in the drawing will be assigned one preference point for each consecutive year in which the individual applies and is unsuccessful. Preference points will not accrue in a year in which an applicant fails to apply, but the applicant will retain any preference points previously earned. Once an applicant receives a license, all preference points will be erased. Preference points will apply to any zone or hunting period for which a hunter applies.

The first license drawing each year will be made from the pool of applicants with the most preference points. If licenses are still available after the first drawing, subsequent drawings will be made from pools of applicants with successively fewer preference points and continue until the license quota is reached or all applicants have received licenses. Applicants who apply as a group will be included in a pool of applicants with the same number of preference points as that of the member of the group with the fewest preference points assigned.

**571—98.15(483A) 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 in such a manner that the tag cannot be removed without mutilating or destroying the tag before carcass can be transported from the place of kill. The tag shall be proof of possession of the carcass by the licensee.

**571—98.16(481A) Harvest reporting system.** A harvest report card will be attached to each transportation tag. Each hunter that bags a wild turkey must fill out and sign the harvest report card after the transportation tag is attached to the turkey. The completed harvest report card must be taken to any ELSI license agent within 48 hours of tagging the turkey or before leaving the state. The license agent will enter the harvest report information into the ELSI terminal and print out a harvest verification tag. The verification tag must be placed on the turkey and remain there until the turkey is processed for consumption. A wild turkey carcass or part of a carcass may not be taken to a locker plant for processing unless the proper verification tag is attached.

Rules 98.10(483A) to 98.15(483A) and 98.16(481A) are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

[Temporary, filed 11/7/75—published 12/1/75, effective 11/7/75]

[Filed emergency 11/18/76—published 12/15/76, effective 11/18/76]

[Filed 12/9/77, Notice 11/2/77—published 12/28/77, effective 2/1/78]

[Filed 12/7/78, Notice 10/18/78—published 12/27/78, effective 1/31/79]

[Filed 12/5/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]

- [Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 1/1/81]
- [Filed 11/6/81, Notice 9/30/81—published 11/25/81, effective 1/1/82]
- [Filed 11/5/82, Notice 9/29/82—published 11/24/82, effective 1/1/83]
- [Filed 11/10/83, Notice 9/28/83—published 12/7/83, effective 1/11/84]
- [Filed 11/2/84, Notice 9/26/84—published 11/21/84, effective 1/1/85]
- [Filed emergency 2/26/85—published 3/13/85, effective 2/26/85]
- [Filed 11/14/85, Notice 9/25/85—published 12/4/85, effective 1/8/86]
- [Filed 11/14/86, Notice 9/24/86—published 12/3/86, effective 1/7/87]
- [Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
- [Filed 11/13/87, Notice 9/23/87—published 12/2/87, effective 1/6/88]
- [Filed 11/10/88, Notice 9/21/88—published 11/30/88, effective 1/4/89]
- [Filed emergency 12/8/89 after Notice 10/4/89—published 12/27/89, effective 12/8/89]
- [Filed emergency 2/12/90 after Notice 12/27/89—published 3/7/90, effective 2/12/90]
- [Filed emergency 12/7/90 after Notice 10/3/90—published 12/26/90, effective 12/7/90]
- [Filed 11/8/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
- [Filed 11/6/92, Notice 9/30/92—published 11/25/92, effective 1/1/93]
- [Filed 11/5/93, Notice 9/29/93—published 11/24/93, effective 12/29/93]
- [Filed 11/18/94, Notice 9/28/94—published 12/7/94, effective 1/11/95]
- [Filed 11/16/95, Notice 9/27/95—published 12/6/95, effective 1/10/96]
- [Filed 11/15/96, Notice 10/9/96—published 12/4/96, effective 1/10/97]
- [Filed 11/14/97, Notice 10/8/97—published 12/3/97, effective 1/7/98]
- [Filed 11/13/98, Notice 10/7/98—published 12/2/98, effective 1/6/99]
- [Filed 11/12/99, Notice 9/8/99—published 12/1/99, effective 1/5/00]
- [Filed 11/13/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]

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**641—91.9(77GA,ch1221) Liaisons.** The following individuals shall each designate a liaison to assist the team in fulfilling its responsibilities.

1. Director of public health.
2. Director of human services.
3. Commissioner of public safety.
4. Director of corrections.
5. Attorney general.
6. Director of education.
7. State court administrator.
8. Director of the law enforcement academy.

**641—91.10(77GA,ch1221) Confidentiality and disclosure of information.** The team and liaisons shall maintain the confidentiality of all information and records used in the review and analysis of domestic abuse deaths, including disclosure of information which is confidential under Iowa Code chapter 22 or any other provisions of state law. No information on individual deaths contained in the records described in this rule shall be disclosed except for the purposes of the team, committee or subcommittee meeting, and no confidential information received in preparation for or during the course of such meeting shall be removed from the meeting room except for further review as authorized by the team chairperson.

In preparation for review of an individual death by the team or its authorized committee or subcommittee, the chairperson of the team or the chairperson's designee is authorized to gather all information pertinent to the review. This information may include, but is not limited to, hospital records, physician's records, school records, day-care records, autopsy records, child abuse registry, investigation or assessment records, state public assistance records, traffic records, public safety records, law enforcement records, fire marshal's records, birth records, death records, and other relevant records necessary to conduct a complete review.

A person in possession or control of medical, investigative or other information pertaining to a domestic abuse death and domestic abuse death review shall allow the inspection and reproduction of the information by the department upon the request of the department to be used only in the administration and for the duties of the Iowa domestic abuse death review team. Information and records which are confidential under Iowa Code section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this rule. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this rule.

**641—91.11(77GA,ch1221) Immunity and liability.** Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity. A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers.

These rules are intended to implement 1998 Iowa Acts, chapter 1221, section 5, subsection 4(10).  
[Filed 11/10/98, Notice 9/9/98—published 12/2/98, effective 1/6/99]





CHAPTER 92  
IOWA FATALITY REVIEW COMMITTEE

**641—92.1(135) Purpose.** The purpose of the child fatality review committee is to determine whether the department of human services and others involved with the case of child abuse responded appropriately.

**641—92.2(135) Definitions.**

*“Child abuse assessment”* means an assessment performed in accordance with Iowa Code section 232.71B.

*“Child fatality”* means the death of a child through the age of 17 years.

*“Committee”* means the Iowa child fatality review committee.

*“Department”* means the department of public health.

*“Director”* means the director of the department of public health.

*“Multidisciplinary team”* means the group of individuals as defined in Iowa Code section 235A.13.

**641—92.3(135) Committee.** The committee is an ad hoc committee appointed by the director on a case-by-case basis. The committee shall include a medical examiner, a pediatrician who is knowledgeable concerning deaths of children, and a person involved in law enforcement. The committee may also consult with individuals with specific child death expertise as necessary to perform the duties and responsibilities of the committee. The department shall provide staffing and administrative support to the committee.

**641—92.4(135) Formation of the committee.** The director may appoint a committee to review the death of a child under the age of 18 upon the request from a member of the legislature or the governor in cases in which a report of suspected child abuse had been filed with the department of human services pursuant to Iowa Code section 232.70 as amended by 2000 Iowa Acts, chapter 1137, section 4, within two years preceding the child’s death.

**641—92.5(135) Committee protocol for review.** In determining whether the department of human services and others involved with the case of child abuse responded appropriately, the committee shall review records relevant to the child’s death, which may include but are not limited to the following:

1. All reports of suspected child abuse on the identified child made to the department of human services pursuant to Iowa Code section 232.70 as amended by 2000 Iowa Acts, chapter 1137, section 4;
2. All child abuse assessments performed on the identified child in accordance with Iowa Code section 232.71B;
3. All other department of human services records maintained on the identified child;
4. All relevant law enforcement records which refer to the identified child;
5. All relevant medical and hospital records of the identified child;
6. All relevant court records which refer to the identified child;
7. Records of any multidisciplinary team which reviewed the case of the identified child;
8. Records of any public entity which reviewed the case of the identified child; and
9. All relevant records maintained by a day care provider, other child care provider, preschool, elementary school, middle school, or high school which refer to the identified child.

The committee shall also consult with any multidisciplinary team that is operating in the area where the fatality occurred.

**641—92.6(135) Content of report.** Upon completion of the review, the director shall submit the committee's report to the governor and general assembly. The committee report shall include findings concerning the case and recommendations for changes to prevent child fatalities when similar circumstances exist. The report shall include but is not limited to the following information:

1. The dates, outcomes, and results of any actions taken by the department of human services and others in regard to each report and allegation of child abuse involving the child who died.
2. The results of any review of the case performed by a multidisciplinary team or by any other public entity that reviewed the case.
3. Confirmation of the department of human services' receipt of any report of child abuse involving the child, including confirmation as to whether or not any assessment involving the child was performed in accordance with Iowa Code section 232.71B, the results of any assessment, a description of the most recent assessment and the services offered to the family, the services rendered to the family, and the basis for the department's decisions concerning the case.

**641—92.7(135) Consultation with county attorney.** Prior to issuing the report, the committee shall consult with the county attorney responsible for prosecution of the alleged perpetrator of the child fatality. The committee's report shall include child abuse information associated with the case and the child but is subject to the restrictions applicable to the department of human services for release of information concerning a child fatality or near fatality in accordance with Iowa Code section 235A.15(9) [2000 Iowa Acts, chapter 1137, section 9].

**641—92.8(135) Supplemental report.** Following the completion of the trial of any alleged perpetrator of the child fatality and the appeal period for the granting of a new trial, the committee shall issue a supplemental report containing the information that was withheld, in accordance with rule 92.7(135), so as not to jeopardize the prosecution or the rights of the alleged perpetrator to a fair trial as described in Iowa Code section 235A.15(9) "f" and "g" [2000 Iowa Acts, chapter 1137, section 9].

**641—92.9(135) Confidentiality and disclosure of information.** The committee shall have access to patient records and other confidential information. The committee may disseminate confidential information in the committee's report which shall be submitted to the governor and the general assembly. For all other purposes, the committee shall maintain the confidentiality of all records which are confidential under Iowa Code section 22.7, Iowa Code chapter 235, or other provision of law. A person in possession or control of medical, investigative, or assessment information or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the department, upon the request of the department, to be used only in the administration and for the duties of the Iowa child fatality review committee. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this rule.

**641—92.10(135) Immunity and liability.** Review committee members are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review committee member provided that the review committee members acted in good faith and without malice in carrying out their official duties in their official capacity. A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review committee members involving the performance of their duties and powers.

A person who releases or discloses confidential data, records, or any other type of information in violation of this chapter is guilty of a serious misdemeanor.

These rules are intended to implement 2000 Iowa Acts, chapter 1137.

[Filed emergency 11/9/00—published 11/29/00, effective 11/9/00]

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## PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.  
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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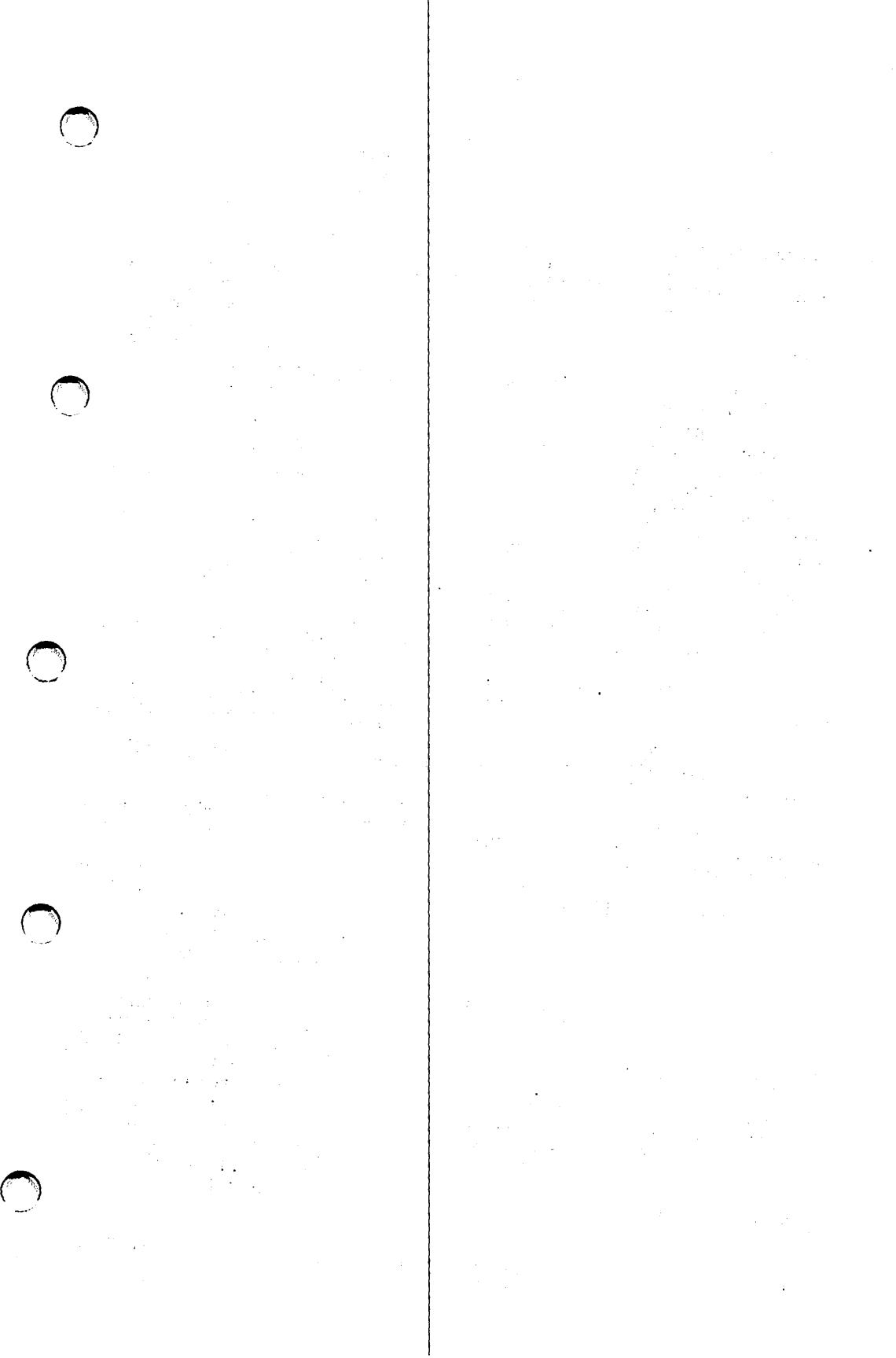
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**645—20.9(158) Apprenticeship.** An applicant for a license as a barber in Iowa who is licensed as a barber or registered as an apprentice barber in another state may receive credit toward the required 2100 hours of course of study prescribed by Iowa Code section 158.8 at a ratio of 100 hours credit for each 400 hours of registered apprenticeship completed in the state in which the applicant is licensed or registered as an apprentice.

This rule is intended to implement Iowa Code section 158.8.

**645—20.10(158) Unlicensed manicurists—definitions.** For the purpose of Iowa Code section 158.14, paragraph 2:

*“Manicuring”* means the practice of cleansing, shaping, polishing the fingernails and massaging the hands and lower arms of any person. It does not include the application of nail extensions, artificial nails or pedicuring.

*“Manicurist”* means a person who performs the practice of manicuring in a licensed barbershop or a licensed cosmetology salon.

*“Such employment”* means that a person who was employed by a licensed barbershop to manicure fingernails prior to July 1, 1989, may continue employment in any licensed barbershop without meeting licensing requirements under Iowa Code chapter 157.

This rule is intended to implement Iowa Code section 158.14.

**645—20.11(158) Demonstrator’s permit.** The board may issue a demonstrator’s permit for the purpose of demonstrating barbering skills to the public. The board shall determine and state the length of time the permit is valid.

1. A demonstrator permit shall be valid only for the person, location, purpose and duration stated on the permit.
2. A demonstrator permit shall be applied for at least 30 days in advance of dates of intended use.
3. A demonstrator permit shall be issued for from one to ten days.
4. The application shall be accompanied by the fee as set forth in 645—20.214(147).
5. No more than four permits shall be issued to any applicant during a calendar year.

**645—20.12(158) Application.** All persons who practice barbering in the state of Iowa are required to be licensed as barbers. To be considered eligible for examination or licensure, or both, an applicant shall meet the licensure requirements of Iowa Code section 158.3 and submit fees and a completed application form prescribed by the board. An application for barber or barber instructor examination must be filed with the board at least 30 days preceding the examination. Application forms may be obtained from the barber school at which the student is enrolled, or by contacting the Board of Barber Examiners, Department of Public Health, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**645—20.13 to 20.99** Reserved.

## BARBER CONTINUING EDUCATION AND DISCIPLINARY PROCEDURES

**645—20.100(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Accredited sponsor”* means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an accredited sponsor, all continuing education activities of such person or organization may be deemed automatically approved.

*“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.

*“Board”* means the board of barber examiners.

*“Hours”* 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.

*“Licensee”* means any person licensed to practice barbering in the state of Iowa.

**645—20.101(272C) Examination of board member.** No board member may apply for or be examined for any license granted by the board of barber examiners while the board member is actively serving as a member of the barber board. This rule shall not preclude a board member from applying for or being granted a barbershop license.

**645—20.102(272C) Reinstatement of an instructor’s license.** If the license has been lapsed or inactive for five years or less, the instructor shall hold a current barber’s license in the state of Iowa and pay only the current renewal fee. If the instructor’s license has been lapsed or inactive for more than five years, the instructor shall also pay the examination fee and take and pass the instructor’s examination.

**645—20.103(272C) Waiver from taking first available examination.** The board may grant a waiver to an applicant if the applicant shows good cause for not taking the first available examination after issuance of a temporary work permit.

**645—20.104(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that a licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. 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.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee’s ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of the provisions of Iowa Code chapter 147.
9. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.
10. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.
11. Practicing the profession while the license is suspended.
12. Suspension or revocation of license by another state.



13. 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.

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

15. Practice outside the scope of a license.

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

17. Verbally or physically abusing clients.

18. False or misleading advertising.

19. Betrayal of a professional confidence.

20. Falsifying clients' records.

21. Failure to report a change of name or address within 30 days after it occurs.

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

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

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

25. Failure to report to the board as provided in rule 645—20.104(272C) any violation by another licensee of the reasons for disciplinary action as listed in this rule.

This rule is intended to implement Iowa Code chapters 17A and 272C.

**645—20.105(147) License fees.** All fees are nonrefundable.

**20.105(1)** License to practice barbering issued on basis of examination is \$75. Retake of examination is \$75.

**20.105(2)** License by reciprocity is \$100.

**20.105(3)** Renewal of barbering license for biennial is \$60. Penalty for late renewal is \$25, in addition to renewal fee, if not postmarked by the July 1 expiration date.

**20.105(4)** License for new barber school is \$500.

**20.105(5)** Renewal or change of location of barber school license is \$250.

**20.105(6)** License to instruct in barber school on basis of examination is \$75.

**20.105(7)** Renewal of instructor's license for biennial is \$70.

**20.105(8)** License for new barbershop is \$30.

**20.105(9)** Biennial renewal of barbershop license is \$60. Penalty for late renewal is \$10, in addition to renewal fee if not postmarked by the July 1 expiration date.

**20.105(10)** Transfer of barbershop or barber school license is \$25.

**20.105(11)** An original barber assistant license is \$25.

**20.105(12)** Renewal of barber assistant license is \$5.

**20.105(13)** Temporary permit to practice barbering is \$10.

**20.105(14)** Verified statement that a licensee is licensed in this state is \$10.

**20.105(15)** Duplicate license is \$10.

**20.105(16)** A demonstrator's permit is \$35 for the first day and \$10 for each day thereafter that the permit is valid.

This rule is intended to implement Iowa Code section 147.80.

**645—20.106(272C) Attendance record report.** Rescinded IAB 6/3/98, effective 7/8/98.

**645—20.107(272C) Physical disability or illness.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—20.108(272C) Exemptions for inactive practitioners.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—20.109(272C) Reinstatement of inactive practitioners.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—20.110(272C) Reinstatement of lapsed license.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—20.111 to 20.199** Reserved.

**645—20.200(272C) Definitions.** Rescinded IAB 11/29/00, effective 1/3/01.

[Filed 7/11/67]

- [Filed 8/5/77, Notice 6/1/77—published 8/24/77, effective 10/1/77]
- [Filed 4/28/78, Notice 11/30/77—published 5/17/78, effective 6/21/78]
- [Filed 1/18/79, Notice 10/18/78—published 2/7/79, effective 4/1/79]
- [Filed 4/24/79, Notice 3/7/79—published 5/16/79, effective 7/1/79]
- [Filed 5/5/80, Notice 2/20/80—published 5/28/80, effective 7/7/80]
- [Filed 11/4/80, Notice 9/3/80—published 11/26/80, effective 1/1/81]
- [Filed 5/22/81, Notice 2/18/81—published 6/10/81, effective 7/17/81]
- [Filed 2/12/82, Notice 12/23/81—published 3/3/82, effective 4/8/82]
- [Filed 10/6/83, Notice 8/17/83—published 10/26/83, effective 11/30/83]
- [Filed 10/6/83, Notice 8/3/83—published 10/26/83, effective 11/30/83]
- [Filed 7/27/84, Notice 5/23/84—published 8/15/84, effective 9/19/84]
- [Filed emergency 8/31/84—published 9/26/84, effective 8/31/84]
- [Filed 11/15/84, Notice 9/12/84—published 12/5/84, effective 1/9/85]
- [Filed 9/4/85, Notice 5/22/85—published 9/25/85, effective 10/30/85]
- [Filed 9/5/85, Notice 7/17/85—published 9/25/85, effective 10/30/85]
- [Filed 2/20/86, Notice 1/15/86—published 3/12/86, effective 4/16/86]
- [Filed 8/22/86, Notice 6/18/86—published 9/10/86, effective 11/5/86]\*
- [Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]
- [Filed 11/17/88, Notice 8/24/88—published 12/14/88, effective 1/18/89]
- [Filed 8/3/90, Notice 5/30/90—published 8/22/90, effective 9/26/90]
- [Filed 11/9/90, Notice 8/22/90—published 11/28/90, effective 1/2/91]
- [Filed 8/1/91, Notice 6/12/91—published 8/21/91, effective 9/25/91]
- [Filed 11/8/91, Notice 9/4/91—published 11/27/91, effective 1/1/92]\*\*
- [Filed 7/31/92, Notice 4/15/92—published 8/19/92, effective 10/1/92]
- [Filed 11/16/92, Notice 7/8/92—published 12/9/92, effective 1/13/93]
- [Filed 1/29/93, Notice 10/14/92—published 2/17/93, effective 4/7/93]
- [Filed 1/29/93, Notice 12/9/92—published 2/17/93, effective 4/7/93]
- [Filed 5/2/97, Notice 3/12/97—published 5/21/97, effective 6/25/97]
- [Filed 5/15/98, Notice 2/25/98—published 6/3/98, effective 7/8/98]
- [Filed 2/3/99, Notice 11/18/98—published 2/24/99, effective 3/31/99]
- [Filed 5/28/99, Notice 4/7/99—published 6/16/99, effective 7/21/99]
- [Filed 11/24/99, Notice 8/11/99—published 12/15/99, effective 1/19/00]
- [Filed 11/9/00, Notice 8/23/00—published 11/29/00, effective 1/3/01]

\*See Public Health Department[641], IAB

\*\*Effective date of rule 20.10(158) delayed 70 days by the Administrative Rules Review Committee at its meeting held December 11, 1991; delayed until adjournment of the 1992 General Assembly at the Committee's meeting held February 3, 1992.

CHAPTER 22  
BARBER ASSISTANTS

[Prior to 7/29/87, Health Department(470), ch 154]

**645—22.1(158) Course of study.** Each Iowa school of barbering licensed by the Iowa board of barber examiners shall conduct a course of study for the barber assistant not to exceed 160 hours. Such course of study shall include the following:

**22.1(1) Supervised practical instruction.** The following shall be included:  
Shampooing 80 hours  
Rinses  
Hair treatments

**22.1(2) Demonstrations and lectures.** The following shall be included:  
Scalp care rinses, treatments 80 hours  
Anatomy of scalp and hair  
Sanitation and sterilization

**22.1(3)** Any person who has at least 1000 hours of credit in an accredited barber school or an accredited cosmetology school may also apply to the board of barber examiners for a license to practice in Iowa as a barber assistant.

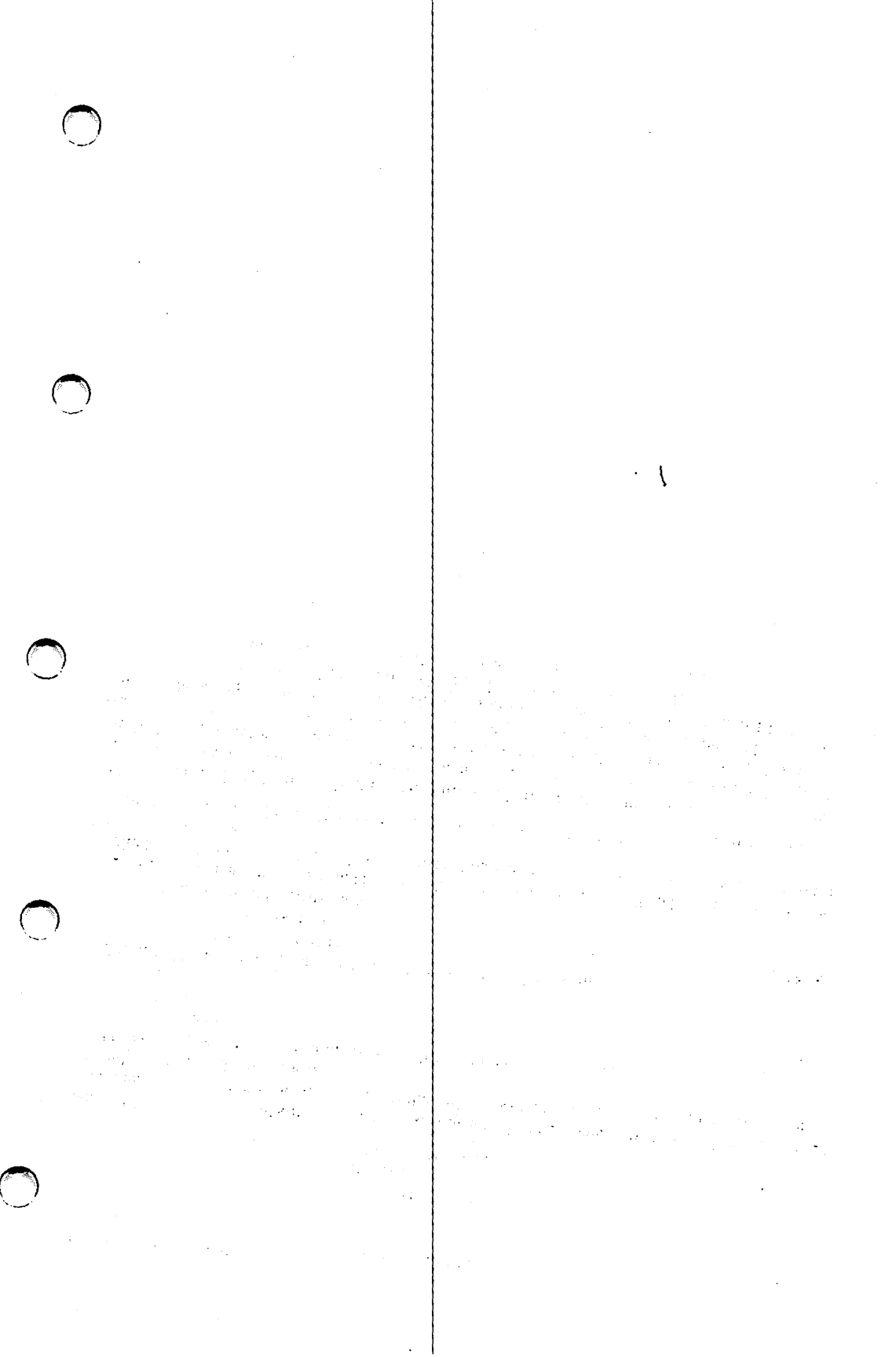
This rule is intended to implement Iowa Code sections 147.36, 147.76, 147.90 and 157.14.

**645—22.2(158) Employment limitations.** A licensed barber assistant may be employed in a licensed barber shop only and may assist the barber in shampooing and sterilizing so long as such shampooing and sterilizing is performed under the direct personal supervision of a licensed barber. A barber's assistant shall not be permitted to cut or style hair or otherwise engage in the practice of barbering.

This rule is intended to implement Iowa Code sections 147.36, 147.76, 147.90 and 157.14.

[Filed 8/5/77, Notice 6/1/77—published 8/24/77, effective 10/1/77]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]



CHAPTER 23  
CONTINUING EDUCATION FOR BARBERS

**645—23.1(158) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

“*Administrator*” means the administrator of the board of barber examiners.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules, which has received approval by the board pursuant to these rules.

“*Approved sponsor*” means a person or an organization sponsoring continuing education activities that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person shall be deemed automatically approved.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing provider requirements during a specified time period.

“*Board*” means the board of barber examiners.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means a clock hour spent by a licensee in actual attendance at and completion of approved continuing education activity.

“*Inactive license*” means the license of a person who is not engaged in practice in the state of Iowa.

“*Lapsed license*” means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a barber in the state of Iowa.

**645—23.2(158) Continuing education requirements.**

**23.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as a barber licensee in this state shall be required to complete a minimum of 8 hours of continuing education approved by the board.

**23.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 8 hours of continuing education per biennium for each subsequent license renewal.

**23.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board or otherwise meet the requirements herein pursuant to statutory provisions and the rules that implement them.

**23.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

**23.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—23.3(158) Standards for approval.**

**23.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
  - (1) Date(s), location, course title, presenter(s);
  - (2) Number of program contact hours. (One contact hour usually equals one hour of continuing education credit.); and
  - (3) Official signature or verification by program sponsor.

**23.3(2) Specific criteria.** Continuing education credit offered for cosmetology continuing education credit will be accepted for barber continuing education credit.

**645—23.4(158) Approval of sponsors, programs, and activities for continuing education.**

**23.4(1) Approval of sponsors.** An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

- a. The form shall include the following:
  - (1) Date, location, course title(s) offered and outline of content;
  - (2) Total hours of instruction presented;
  - (3) Names and qualifications of instructors including résumés or vitae; and
  - (4) Evaluation form(s).
- b. Records shall be retained by the sponsor for four years.
- c. Attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance or verification to the licensee providing the following information:
  - (1) Program date(s);
  - (2) Course title and presenter;
  - (3) Location;
  - (4) Number of clock hours attended and continuing education hours earned;
  - (5) Name of sponsor and sponsor number;
  - (6) Licensee's name; and
  - (7) Method of presentation.
- d. All approved sponsors shall maintain a copy of the following for a minimum of four years from the date of the continuing education activity:
  - (1) The continuing education activity;
  - (2) List of enrolled licensees' names and license numbers; and
  - (3) Number of continuing education clock hours awarded.
- e. The program instructors shall have successfully completed a board-approved 16-hour teaching class. Upon written request the board may grant a waiver of the 16-hour class upon demonstration by the instructor that the instructor has met the requirement by equivalency.

f. The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include:

- (1) Date(s), location, course title(s) offered and outline of content;
- (2) Total hours of instruction presented;
- (3) Names and qualifications of instructors including résumés or vitae;
- (4) Evaluation form(s); and
- (5) A summary of the evaluations completed by the licensees.

**23.4(2) *Prior approval of programs/activities.*** An organization or person other than an approved sponsor that desires prior approval of a course, program or other educational activity or that desires to establish accreditation of such activity prior to attendance shall apply to the board for approval on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

- a. The date(s);
- b. Course(s) offered;
- c. Course outline;
- d. Total hours of instruction; and

e. Names and qualifications of speakers and other pertinent information. The speakers shall have successfully completed a board-approved 16-hour teaching class. Upon written request the board may grant a waiver of the 16-hour class upon demonstration by the instructor that the instructor has met the requirement by equivalency.

The organization or person shall be notified of approval or denial by ordinary mail.

**23.4(3) *Review of programs.*** Continuing education programs/activities shall be reported every year at the designated time as assigned by the board. The board may at any time reevaluate an approved sponsor. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

**23.4(4) *Postapproval of activities.*** A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

- a. The date(s);
- b. Course(s) offered;
- c. Course outline;
- d. Total hours of instruction and credit hours requested;

e. Names and qualifications of speakers and other pertinent information. The speakers shall have successfully completed a board-approved 16-hour teaching class. Upon written request the board may grant a waiver of the 16-hour class upon demonstration by the instructor that the instructor has met the requirement by equivalency;

- f. Request for credit which includes a brief summary of the activity; and
- g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

**23.4(5) *Voluntary relinquishment.*** The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

**645—23.5(158) Reporting continuing education by licensee.** At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

**23.5(1)** The information on the form shall include:

- a. Title of continuing education activity;
- b. Date(s);
- c. Sponsor of the activity;
- d. Board-approved sponsor number;
- e. Number of continuing education hours earned; and
- f. Teaching method used.

**23.5(2) Audit of continuing education report.** After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

a. The board will select licensees to be audited.

b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:

(1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;

(2) Number of contact hours for program attended; and

(3) Indication of successful completion of the course.

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to an audit of the continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

**645—23.6(158) Reinstatement of lapsed license.** Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows a license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;

2. Pays all of the renewal fees then due;

3. Pays all penalty fees which have been assessed by the board for failure to renew;

4. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 8 by the number of bienniums since the license lapsed. If the license had lapsed for three bienniums or less, the applicant for reinstatement may, in lieu of submitting the required continuing education, furnish evidence of successful completion, with a passing grade, of the Iowa license examinations conducted within one year immediately prior to the submission of the application for reinstatement. If the license has lapsed for more than three bienniums, the applicant shall complete 24 hours of approved continuing education. The applicant shall also be reexamined and show evidence of successful completion of the Iowa state barber license examination with a passing grade on the reexamination conducted within one year of the application for reinstatement.



5. If the applicant for reinstatement holds a current valid barber license in another state with which the state of Iowa has reciprocity, the applicant shall submit:

- A written application on a form provided by the state board;
- Proof of current valid barber license;
- The current renewal fee;
- The fee for failure to renew; and
- Proof of continuing education hours obtained equivalent to continuing education required in Iowa.

**645—23.7(158,272C) Continuing education waiver for active practitioners.** A barber licensed to practice barbering shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing barber.

**645—23.8(158,272C) Continuing education exemption for inactive practitioners.** A licensee who is not engaged in practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption upon written application to the board. If the licensee seeks an inactive status for the barber's license and the licensee also holds an instructor's license, the instructor's license shall automatically become inactive. If the licensee holds both a barber's license and instructor's license, the licensee may choose to seek an inactive license for the instructor's license alone. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

**645—23.9(158,272C) Continuing education waiver for disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum educational requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—23.10(158,272C) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of waiver shall, prior to engaging in the practice of barbering in the state of Iowa, satisfy the following requirements for reinstatement:

**23.10(1)** Submit written application for reinstatement to the board upon forms provided by the board with current license fee; and

**23.10(2)** Furnish in the application evidence of one of the following:

*a.* Full-time practice in another state of the United States or the District of Columbia and completion of continuing education for each biennium of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of a total number of hours of approved continuing education computed by multiplying 8 times the number of bienniums a certificate of exemption shall be in effect for such applicant not to exceed 90 hours; or

c. Successful completion of any or all parts of the Iowa state license examination as deemed necessary by the board, successfully completed within one year immediately prior to the submission of such application for reinstatement.

d. If the applicant for reinstatement holds a current valid barber license in another state with which the state of Iowa has reciprocity, the applicant shall submit:

- (1) A written application on a form provided by the state board;
- (2) Proof of current valid barber license;
- (3) The current renewal fee; and
- (4) Proof of continuing education hours obtained equivalent to continuing education required in Iowa.

**645—23.11(272C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 158.

[Filed 11/9/00, Notice 8/23/00—published 11/29/00, effective 1/3/01]

**CHAPTER 24**

**PETITIONS FOR RULE MAKING**  
Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 25**

**DECLARATORY RULINGS**  
Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 26**

**CHILD SUPPORT NONCOMPLIANCE**  
Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 27**

**IMPAIRED PRACTITIONER REVIEW COMMITTEE**  
Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 28**

Reserved

**CHAPTER 29**

**PUBLIC RECORDS AND FAIR INFORMATION PRACTICES**  
Rescinded IAB 6/16/99, effective 7/21/99

*PHYSICAL AND OCCUPATIONAL THERAPY*  
CHAPTER 200  
PHYSICAL THERAPY EXAMINERS  
[Prior to 11/16/88, see Health Department[470], Ch 137]

**645—200.1(147) Definitions.**

“*Board*” means the board of physical and occupational therapy examiners.

“*Department*” means the department of public health.

“*Hour of continuing education*” means 50 minutes of attendance per clock hour.

“*Licensee*” means any person licensed to practice physical therapy in the state of Iowa.

“*Licensure by interstate endorsement*” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state. Application will be considered on an individual basis for licensure in Iowa, if the applicant meets the qualifications required of a licensed physical therapist in Iowa.

**645—200.2(147) General.**

**200.2(1)** Licenses issued by the board shall be for licensure by examination or licensure by interstate endorsement. Each license shall be 8½ by 11 inches in size. Each license issued shall bear the signature of the chairperson of the board of physical and occupational therapy examiners.

**200.2(2)** The board requires the satisfactory completion of the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

**200.2(3)** For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

**200.2(4)** An examinee failing the examination shall be required to repeat the entire examination. No individual may repeat the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination more than three times every five years. Payment of the examination fee is required for all repeats of the examination.

**200.2(5)** A notarized copy of the official document of name change, if applicable, is required with initial application.

**200.2(6)** Persons desiring information concerning the time and place of meetings of the board of physical and occupational therapy examiners or other information should write to Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**200.2(7)** Rescinded IAB 8/27/97, effective 10/1/97.

**200.2(8)** Incomplete applications that have been on file in the board office for two years shall be considered invalid and be destroyed. The application fee is nonrefundable.

**645—200.3(147) Licensure by examination.**

**200.3(1)** Applications for licensure to practice physical therapy in Iowa shall be made to Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The application form will be furnished by the board. The application shall include the following:

*a.* Full name, current address, age, date of birth, place of birth, and other information as requested on the application form.

b. Foreign-trained physical therapists shall provide:

(1) An English translation and an equivalency evaluation of their educational credentials by one of the following: Foreign Credentialing Commission on Physical Therapy, Inc., P.O. Box 25827, Alexandria, VA 22313-9998, telephone (703)684-8406; International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 66940, Los Angeles, CA 90066, telephone (310)390-6276; International Consultants of Delaware, Inc., 109 Barksdale, Professional Center, Newark, DE 19711, telephone (302)737-8715; International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to the Commission of Accreditation in Physical Therapy Education standards and shall consist of a minimum of 60 hours of general education and 60 hours of professional education. An applicant shall bear the expense of the curriculum evaluation.

(2) A notarized copy of the certificate or diploma awarded to the applicant from a physical therapy program in the country in which the applicant was educated.

(3) Provide certified proof of proficiency in the English language by achieving a score of at least 560 on the Test of English as a Foreign Language (TOEFL) paper examination and a score of at least 200 on the computer examination administered by the Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination.

(4) An official statement from each country or territory board of examiners or other regulatory authority regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed.

c. If the professional examination is taken in another state, a certified copy of the scores from the appropriate examination.

d. Required fee in the form of a check or money order made payable to the Board of Physical and Occupational Therapy Examiners.

e. Official transcript, with school seal, of physical therapy professional curriculum.

f. A notarized copy of the certificate or diploma awarded the applicant from a school of physical therapy accredited by an accrediting agency recognized by the American Physical Therapy Association Commission on Accreditation and Education. If graduated from a degree program which did not issue a diploma stating the applicant's degree was in physical therapy, a statement verifying that the degree was in physical therapy is required from the school.

200.3(2) Rescinded IAB 10/23/96, effective 10/4/96.

200.3(3) An applicant who will be working in the scope of physical therapy prior to licensure shall include on the application form the name of the licensed physical therapist who will be providing supervision of the applicant until the applicant is licensed. The applicant will notify the board, within seven days, of any change in supervision.

a. *Applicant physical therapist.* A person who has made application for licensure and is awaiting board action may practice only under the supervision of a licensed physical therapist for a period not to exceed six months in the case of licensure by examination and three months for licensure by endorsement. During this time the applicant may evaluate, plan treatment programs, and provide periodic re-evaluation only under "on-site" supervision of a licensed physical therapist who shall bear full responsibility for care provided under the physical therapist's supervision and cosign all physical therapy records. A person who has failed the examination in any state, territory, or country shall not practice as an applicant physical therapist.

*b. Applicant physical therapist assistant.* A person who has made application for licensure and is awaiting board action may practice under the supervision of a licensed physical therapist for a period not to exceed six months in the case of licensure by examination and three months for licensure by endorsement. During this time the applicant may perform physical therapy procedures as delegated by the supervising physical therapist only under “on-site” supervision. Documentation made in physical therapy records by an applicant physical therapist assistant shall be cosigned by the supervising physical therapist. A person who has failed the examination in any state, territory, or country shall not practice as an applicant physical therapist assistant.

**200.3(4)** Scores of examinations taken more than five years prior to date of application by examination will be considered invalid.

**645—200.4(147) Licensure by interstate endorsement.**

**200.4(1)** An individual from another state seeking a license to practice physical therapy in Iowa will be considered on an individual basis under the principle of interstate endorsement.

**200.4(2)** Applications for licensure to practice physical therapy in Iowa shall be made to Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**200.4(3)** An applicant for licensure by interstate endorsement shall have successfully completed a course of study for the physical therapist accredited by the commission on accreditation in education of the American Physical Therapy Association, or another appropriate accrediting body, and have passed the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board of physical and occupational therapy examiners and:

- a.* Have practiced physical therapy for a minimum of 2,080 hours during the immediately preceding three-year time period as a licensed physical therapist; or
- b.* Have served as a full-time faculty member teaching physical therapy in an accredited school of physical therapy for at least one of the immediately preceding three years; or
- c.* Have graduated from an approved school of physical therapy within a period of one year from the date of graduation to the time application is completed for licensure; or
- d.* Have completed 80 hours of board-approved continuing education during the immediately preceding three-year time period.

**200.4(4)** Applicants shall arrange to provide:

*a.* An official statement from each country, territory, and state board of examiners regarding the status of the applicant’s license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statements from all entities in which they are currently or formerly licensed.

*b.* A certified copy of the scores from the appropriate professional examination to be sent.

*c.* Foreign-trained physical therapists shall provide:

(1) An English translation and an equivalency evaluation of their educational credentials by one of the following: Foreign Credentialing Commission on Physical Therapy, Inc., P.O. Box 25827, Alexandria, VA 22313-9998, telephone (703)684-8406; International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 66940, Los Angeles, CA 90066, telephone (310)390-6276; International Consultants of Delaware, Inc., 109 Barksdale, Professional Center, Newark, DE 19711, telephone (302)737-8715; International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to the Commission of Accreditation in Physical Therapy Education standards and shall consist of a minimum of 60 hours of general education and 60 hours of professional education. An applicant shall bear the expense of the curriculum evaluation.

(2) A notarized copy of the certificate or diploma awarded to the applicant from a physical therapy program in the country in which the applicant was educated.

(3) Provide certified proof of proficiency in the English language by achieving a score of at least 560 on the Test of English as a Foreign Language (TOEFL) paper examination and a score of at least 200 on the computer examination administered by the Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination.

**200.4(5)** An applicant for licensure under subrule 200.4(3), paragraphs "a" and "b," must include with this application a sworn statement of previous physical therapy practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced physical therapy at least 2,080 hours or taught as a full-time faculty member for at least one of the immediately preceding years during the last three-year time period.

**200.4(6)** An applicant shall submit the required fee in the form of a check or money order made payable to the Board of Physical and Occupational Therapy Examiners.

**200.4(7)** Rescinded IAB 10/23/96, effective 10/4/96.

**200.4(8)** An applicant, who will be working in the scope of physical therapy prior to licensure, shall include on the application form the name of the licensed physical therapist who will be providing supervision of the applicant until the applicant is licensed. In the event that there is a change of the licensed physical therapist providing supervision, the applicant shall submit the name of the therapist to the board in writing within seven days after the change in supervision takes place.

**200.4(9)** Applicants not meeting all requirements in this rule are required to meet all the requirements as set out in 200.3(147), including taking or retaking the appropriate physical therapy professional examination.

#### **645—200.5(147) License renewal.**

**200.5(1)** Beginning July 1, 1999, a license to practice as a physical therapist shall expire every two years on the fifteenth day of the birth month. Continuing education requirements shall be completed within the same renewal period for each license holder.

An application and a continuing education report form for renewal of license to practice as a physical therapist shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

**200.5(2)** Beginning July 1, 1999, the continuing education requirements will coincide with the renewal compliance period. The licensee shall submit to the board office 30 days before licensure expiration the application and continuing education report form with the renewal fee as specified in rule 200.9(147). Individuals who were issued their initial licenses within six months of their birth month will not be required to renew their licenses until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued. Individuals will be required to report 40 hours of continuing education for every renewal thereafter.

**200.5(3)** Late renewal. If the renewal fees are received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fees are received more than 30 days after the renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in rule 200.9(147). Individuals who fail to submit the renewal application and complete documentation of continuing education hours shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

**200.5(4)** Physical therapists who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not engage in the practice of physical therapy.

**645—200.6(147) Exemptions for inactive practitioners.** A licensee who is not engaged in the active practice of physical therapy in the state of Iowa residing within or without the state of Iowa may be granted a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of physical therapy in Iowa without first complying with all regulations governing reinstatement after exemption (200.7(147)). The application for a certificate of exemption shall be submitted upon the form provided by the board.

Individuals who fail to request reinstatement after a three-year period from the date the certificate of exemption was granted shall be considered to have a lapsed license.

**645—200.7(147) Reinstatement of exempted, inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certification of exemption shall, prior to engaging in the practice of physical therapy in the state of Iowa, satisfy the following requirements for reinstatement:

**200.7(1)** Submit written application for reinstatement to the board upon forms provided by the board, pay the current renewal fee and reinstatement fee; and

**200.7(2)** Furnish in the application evidence of one of the following:

*a.* Completion of a total number of hours of accredited continuing education computed by multiplying 40 for each renewal period the license has been inactive; or

*b.* Successful completion of the appropriate physical therapy professional examination (200.2(2)) within one year immediately prior to the submission of such application for reinstatement.

**200.7(3)** Provide an official statement from each country, territory and state board of examiners regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant is currently or was formerly licensed.

**645—200.8(147) Reinstatement of lapsed license.** Individuals who have allowed their licenses to lapse, prior to practicing as a physical therapist in the state of Iowa, shall satisfy the following requirements for reinstatement:

**200.8(1)** Submit written application for reinstatement to the board on forms provided by the board, pay current application fee, the reinstatement fee and applicable penalty fees; and

**200.8(2)** Furnish in the application evidence of one of the following:

*a.* Completion of a total number of hours of accredited continuing education computed by multiplying 40 for each renewal period the license has been inactive; or

*b.* Successful completion of the appropriate physical therapy professional examination required in subrule 200.2(2) within one year immediately prior to the submission of the application for reinstatement.

**200.8(3)** Provide an official statement from each country, territory and state board of examiners regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant is currently or was formerly licensed.

**645—200.9(147) License fees.** All fees are nonrefundable.

**200.9(1)** The application fee for a license to practice physical therapy issued upon the basis of examination or endorsement is \$100 in check or money order made payable to the Board of Physical and Occupational Therapy Examiners. There is an additional fee for the examination. The fee for the examination is listed on the application form.

**200.9(2)** The renewal fee for a license to practice physical therapy for a biennial period is \$55.

**200.9(3)** Penalty fee for failure to complete and return the physical therapy renewal application before the renewal expiration date is \$55.

**200.9(4)** Penalty fee for failure to complete the required continuing education during the renewal period is \$50. Failure to complete and return the continuing education report by the end of the renewal period is \$50.

**200.9(5)** Reinstatement fee following inactive exemption and lapsed license is \$100.

**200.9(6)** Fee for certified statement that a licensee is licensed in Iowa is \$10.

**200.9(7)** Fee for failure to report, in writing, change of address after 30 days is \$10.

**200.9(8)** Fee for failure to report, in writing, change of name within 30 days is \$10.

**200.9(9)** Fee for a duplicate or replacement license is \$10.

**200.9(10)** Fee for a returned check is \$15.

**645—200.10(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in these rules, including civil penalties in an amount not to exceed \$1,000, when the board determines that the licensee is guilty of any of the following acts or offenses.

**200.10(1)** All grounds listed in Iowa Code section 147.55.

**200.10(2)** Violation of the rules promulgated by the board.

**200.10(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.

**200.10(4)** Practicing the profession while the license is suspended or lapsed.

**200.10(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

**200.10(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.

**200.10(7)** Failure to comply with the following rules of ethical conduct and practice.

a. A physical therapist shall not practice outside the scope of the license.

b. When the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment, the physical therapist is obligated to assist in identifying a professionally qualified licensed practitioner to perform the service.

c. The practice of physical therapy shall minimally consist of:

(1) Interpreting all referrals.

(2) Evaluating each patient.

(3) Identifying and documenting individual patient's problems and goals.

(4) Establishing and documenting a plan of care.

(5) Providing appropriate treatment.

(6) Determining the appropriate portions of the treatment program to be delegated to assistive personnel.

(7) Appropriately supervising individuals as described in rule 200.11(272C).

(8) Providing timely patient reevaluation.

(9) Maintaining timely and adequate patient records of all physical therapy activity and patient response.

d. It is the responsibility of the physical therapist to inform the referring practitioner when any requested treatment procedure is inadvisable or contraindicated. The physical therapist shall refuse to carry out orders that are inadvisable or contraindicated and advise the referring practitioner of such orders.



e. Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain maximum therapeutic effect.

f. It is unethical for the physical therapist to directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or to profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services.

g. The physical therapist shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the physical therapist owns stock or has any other direct or indirect financial interest.

h. Physical therapists shall not permit another person to use their licenses for any purpose.

i. A physical therapist shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of physical therapy.

j. A physical therapist shall not verbally or physically abuse a patient.

k. A physical therapist shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

**200.10(8)** Failure to adequately supervise personnel in accordance with the standards for supervision set forth in rule 200.11(272C).

**200.10(9)** Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying patient's records.

**200.10(10)** Failure to notify the board of a change of name or address within 30 days after it occurs.

**200.10(11)** Submission of a false report of continuing education, or failure to submit the required report of continuing education.

**200.10(12)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

**200.10(13)** Failure to comply with a subpoena issued by the board.

**200.10(14)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

**200.10(15)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by a physical therapist assistant of the reasons for disciplinary action as listed in 645—Chapter 13.

**200.10(16)** Obtaining a license by fraud or misrepresentation.

**200.10(17)** Conviction of a felony related to the practice of physical therapy or the conviction of any felony that would affect the licensee's ability to practice physical therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

**200.10(18)** Professional incompetency. Professional incompetency includes but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the physical therapist's practice;

b. A substantial deviation by the physical therapist from the standards of learning or skill ordinarily possessed and applied by other physical therapists in the state of Iowa acting in the same or similar circumstances;

c. A failure by a physical therapist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physical therapist in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of physical therapy in the state of Iowa.

**200.10(19)** Inability to practice physical therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

**200.10(20)** Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

**200.10(21)** Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

**200.10(22)** Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

a. Reporting incorrect treatment dates for the purpose of obtaining payment;

b. Reporting charges for services not rendered;

c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

**200.10(23)** Practicing without a current license or practicing when a license is lapsed.

#### **645—200.11(272C) Supervision requirements.**

**200.11(1)** Licensed physical therapist assistants may assist in providing physical therapy services under immediate telecommunicative supervision as long as the physical therapy services are rendered in accordance with the minimal frequency standards set forth in subrule 200.11(4).

**200.11(2)** Licensed physical therapist assistants may assist in providing physical therapy services as long as supervision and the physical therapy services are rendered in accordance with the minimal frequency standards set forth in subrule 200.11(4).

**200.11(3)** When providing physical therapy services under the supervision of a physical therapist, the physical therapist assistant shall:

a. Provide physical therapy services only under the supervision of the physical therapist.

b. Consult the supervising physical therapist if procedures are believed not to be in the best interest of the patient or if the assistant does not possess the skills necessary to provide the procedures.

c. Provide treatment only after evaluation and development of a treatment plan by the physical therapist.

d. Gather data relating to the patient's disability, but not interpret the data as it pertains to the plan of care.

e. Refer inquiries that require interpretation of patient information to the physical therapist.

f. Communicate any change, or lack of change, which occurs in the patient's condition which may need the assessment of the physical therapist.

**200.11(4)** The physical therapist must provide patient evaluation and participate in treatment based upon the health care admission or residency status of the patient being treated. A physical therapist may not delegate to the physical therapist assistant the authority to provide more than the following:

<u>Patient's Health Care Residency or Admission Status</u>	<u>Maximum of Physical Therapist Delegation (Whichever Comes First)</u>
Hospital, acute care	3 visits or 2 consecutive calendar days
Hospital, non-CARF	3 visits or 2 consecutive calendar days
Hospital, CARF accredited beds	4 visits or 4 consecutive calendar days
Skilled nursing	4 visits or 4 consecutive calendar days
Home health	4 visits or 9 consecutive calendar days
Nursing facility	9 visits or 9 consecutive calendar days
Iowa educational agency	4 visits or 29 consecutive calendar days
Other facility/admissions status	4 visits or 9 consecutive calendar days

**200.11(5)** A physical therapist may be responsible for supervising not more than two physical therapist assistants who are providing physical therapy per calendar day. This includes physical therapist assistants being supervised by telecommunicative supervision. However, a physical therapist assistant may be supervised by any number of physical therapists. The physical therapist is responsible for maintaining timely records which indicate the names of the physical therapist assistants for whom the physical therapist has supervisory responsibility. The physical therapist shall ensure that a physical therapist assistant under the physical therapist's supervision has a current license to practice physical therapy and that an applicant under the physical therapist's supervision has a current application on file.

**200.11(6)** The signature of a physical therapist assistant or physical therapist on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

**200.11(7)** The physical therapist assumes responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the assistive personnel.

Following are activities which must be performed by the physical therapist and cannot be delegated to any assistive personnel including a physical therapist assistant:

1. Interpretation of referrals.
2. Initial physical therapy evaluation and reevaluations.
3. Identification, determination or modification of patient problems, goals, and care plans.
4. Final discharge evaluation and establishment of the discharge plan.
5. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times.
6. Delegation and instruction of the services to be rendered by the physical therapist assistant or other assistive personnel, including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures.
7. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

**200.11(8)** Other assistive personnel: provision of patient care independently. Physical therapists are responsible for patient care provided by assistive personnel under their supervision. Physical therapy aides and other assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a. The supervising physical therapist has physical participation in the patient's treatment or evaluation, or both, each treatment day.

b. The assistive personnel may provide independent patient care only while under the on-site supervision of the supervising physical therapist. On-site supervision means that the supervising physical therapist shall:

- (1) Be continuously on site and present in the department or facility where the assistive personnel are performing services; and
- (2) Be immediately available to assist the person being supervised in the services being performed; and
- (3) Provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

c. Documentation made in physical therapy records by unlicensed assistive personnel shall be cosigned by the supervising physical therapist.

d. The physical therapist provides periodic reevaluation of assistive personnel's performance in relation to the patient.

**200.11(9) Other assistive personnel.** Physical therapy aides and other assistive personnel may assist a physical therapist assistant in providing patient care in the absence of a physical therapist only if the physical therapist assistant maintains in-sight supervision of the physical therapy aide or other assistive personnel and the physical therapist assistant is primarily and significantly involved in that patient's care.

**645—200.12(272C) Reporting continuing education credits.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—200.13** Reserved.

**645—200.14(272C) Hearings.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—200.15(272C) Disability or illness.** Rescinded IAB 11/29/00, effective 1/3/01.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 148A, 148B, and 272C.

[Filed 7/12/66; amended 5/11/71, 3/14/75, 6/10/75]

[Filed 9/19/77, Notice 7/13/77—published 10/5/77, effective 11/9/77]

[Filed 7/17/79, Notice 5/30/79—published 8/8/79, effective 9/12/79]

[Filed 4/23/81, Notice 3/4/81 —published 5/13/81, effective 6/17/81]

[Filed 10/9/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]

[Filed 4/9/82, Notice 3/3/82—published 4/28/82, effective 6/2/82]

[Filed 7/1/83, Notice 5/11/83—published 7/20/83, effective 8/25/83]

[Filed 11/10/83, Notice 9/14/83—published 12/7/83, effective 1/12/84]

[Filed 4/6/84, Notice 1/4/84—published 4/25/84, effective 5/31/84]

[Filed emergency 8/24/84 after Notice 7/4/84—published 9/12/84, effective 8/24/84]

[Filed 11/2/84, Notice 9/26/84—published 11/21/84, effective 12/26/84]

[Filed emergency after Notice 12/13/85, Notice 11/6/85—published 1/1/86, effective 12/13/85]

[Filed 1/10/86, Notice 8/14/85—published 1/29/86, effective 3/6/86]

[Filed 1/10/86, Notice 9/25/85—published 1/29/86, effective 3/6/86]

[Filed 8/4/86, Notice 6/4/86—published 8/27/86, effective 10/1/86]

[Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]

[Filed 11/9/89, Notice 9/6/89—published 11/29/89, effective 1/3/90]

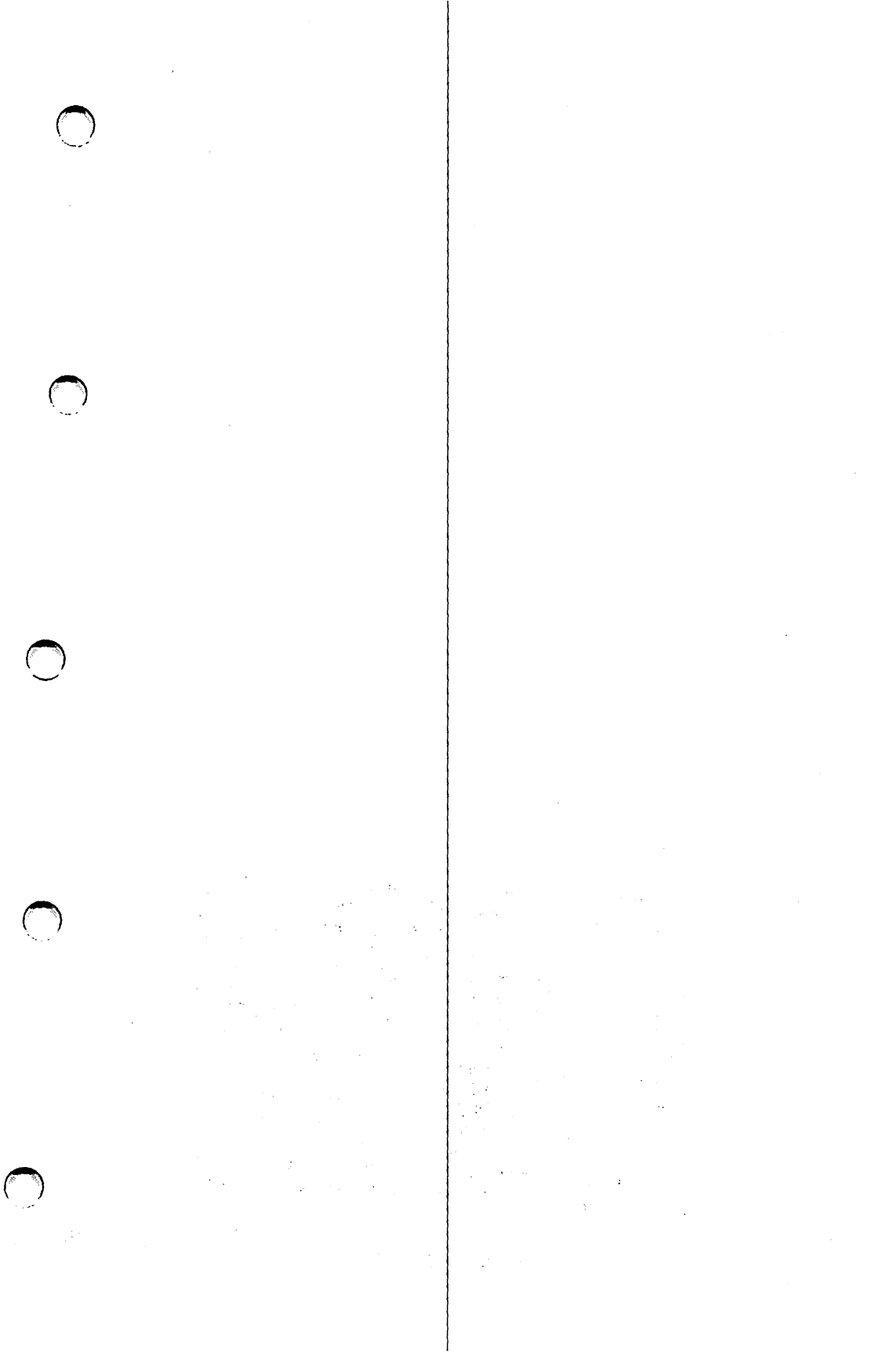
[Filed 9/28/90, Notice 7/11/90—published 10/17/90, effective 11/21/90]

[Filed 7/3/91, Notice 4/17/91—published 7/24/91, effective 9/11/91]

[Filed 10/25/91, Notice 9/4/91—published 11/13/91, effective 12/18/91]

[Filed 4/14/92, Notice 2/5/92—published 5/13/92, effective 6/17/92]

- [Filed 7/17/92, Notice 5/13/92—published 8/5/92, effective 9/9/92]
- [Filed 10/1/92, Notice 6/24/92—published 10/28/92, effective 12/2/92]
- [Filed 6/4/93, Notice 2/17/93—published 6/23/93, effective 7/28/93]
- [Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 10/6/93]
- [Filed 1/27/94, Notice 12/8/93—published 2/16/94, effective 3/23/94]
- [Filed 7/15/94, Notice 4/13/94—published 8/3/94, effective 9/7/94]
- [Filed 2/22/96, Notice 12/20/95—published 3/13/96, effective 4/17/96]
- [Filed emergency 10/4/96, after Notice 7/17/96—published 10/23/96, effective 10/4/96]
- [Filed 2/7/97, Notice 12/18/96—published 2/26/97, effective 4/2/97]
- [Filed 8/8/97, Notice 5/21/97—published 8/27/97, effective 10/1/97]
- [Filed 1/23/98, Notice 12/17/97—published 2/11/98, effective 3/18/98]
- [Filed emergency 5/15/98—published 6/3/98, effective 5/27/98]
- [Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]
- [Filed 7/9/99, Notice 5/19/99—published 7/28/99, effective 9/1/99]
- [Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]



CHAPTER 201  
OCCUPATIONAL THERAPY EXAMINERS

[Prior to 11/16/88, see Health Department[470] Ch 138]

**645—201.1(148B) Definitions.**

“*ALJ*” means administrative law judge.

“*Approved program or activity*” means a continuing education program meeting standards set forth in these rules which qualifies for approval by the board pursuant to these rules.

“*Board*” means the board of physical and occupational therapy examiners.

“*Department*” means the Iowa department of public health.

“*Examination*” means the NBCOT examination for occupational therapists and for occupational therapy assistants.

“*Hour of continuing education*” means 50 minutes of attendance per clock hour.

“*Licensee*” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

“*NBCOT*” means the National Board for Certification in Occupational Therapy.

**645—201.2(147,148B) General.**

**201.2(1)** An applicant for a permanent license shall meet the requirements of Iowa Code section 148B.5.

**201.2(2)** An application for a license shall be upon an official form supplied by the department. The form shall be completed and signed by the applicant and filed with the department with the required fee in the form of a check or money order payable to the Board of Physical and Occupational Therapy Examiners.

**201.2(3)** The first license fee provides for the initial licensure of persons and is valid through the expiration date of the biennial licensing period during which the license was issued. The renewal licenses are issued for biennial periods.

**201.2(4)** Licenses issued by the board shall be 8" by 11 inches in size. Each license issued shall bear the signature of the chairperson of the board of physical and occupational therapy examiners.

**201.2(5)** Persons desiring information concerning the time and place of meetings of the board, or other information, shall write to Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**201.2(6)** An individual board member, following verification that an applicant has completed all components of the licensing process, may temporarily approve an applicant's license to practice until such time as the full board shall consider the application.

**201.2(7)** Incomplete applications that have been on file in the board office for two years shall be considered invalid and be destroyed. The application fee is nonrefundable.

**645—201.3(147,148B,272C) Education requirements.**

**201.3(1)** The applicant for licensure as an occupational therapist shall have completed the requirements for a baccalaureate or master's degree in occupational therapy in an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The applicant shall also have successfully completed a minimum of six months' supervised field work experience.

**201.3(2)** The applicant for licensure as an occupational therapy assistant shall be a graduate of an educational program approved by the American Occupational Therapy Association. The applicant shall have successfully completed a minimum of two months' supervised field work experience.

**645—201.4(147,148B) Examination requirements.**

**201.4(1)** The applicant for licensure as an occupational therapist shall have received a passing score on the NBCOT certification examination for occupational therapists. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted to the board of physical and occupational therapy examiners.

**201.4(2)** The applicant for a license as an occupational therapy assistant shall have received a passing score on the NBCOT certification examination for occupational therapy assistants. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted to the board of physical and occupational therapy examiners.

**645—201.5(147) Application for permanent licensure.**

**201.5(1)** Applications for licensure to practice as an occupational therapist or occupational therapy assistant in Iowa shall be made to Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, on an application form furnished by the board. The application shall include the following:

- a. Full name, current address, age, date of birth, place of birth and other information as requested on the application form.
- b. Official transcript, with school seal of occupational therapy or occupational therapy assistant professional curriculum.
- c. A notarized copy of the certificate or diploma indicating degree awarded to the applicant, if the degree is not indicated on the official transcript.
- d. A notarized copy of the certification examination results or official letter from NBCOT confirming a passing score.
- e. A notarized copy of official document of name change, if applicable.

**201.5(2)** An applicant who has passed the examination within 12 months of the date of the application shall submit an application as outlined in 201.5(1).

a. An applicant who has passed the examination one to five years prior to the date of the application shall also provide evidence to the board to document either:

- (1) Proof of practice of 2080 hours in the last five years, or
- (2) Completion of 15 hours, for occupational therapists, or 7.5 hours, for occupational therapy assistants, of clinically applicable continuing education for each year since passing the examination.

b. An applicant who has passed the examination six to ten years prior to the date of the application shall also provide evidence to the board to document either:

- (1) Proof of practice of 2080 hours in the last five years, or
- (2) Completion of 75 hours, for occupational therapists, or 37.5 hours, for occupational therapy assistants, of clinically applicable continuing education within the last five years, and three months of full-time practice under the supervision of a licensed occupational therapist. This supervised practice must be completed within six months after the date of the application and the supervising occupational therapist must verify in writing completion of three months of full-time supervised practice. While completing the supervised practice, the applicant will be considered unlicensed and shall be supervised as unlicensed personnel. (See 201.9(7), 201.9(8) and 201.9(9).)

The applicant must inform the board of intent to be licensed through this method and must submit the name of the supervising therapist. In the event there is a change in the supervising therapist, the applicant shall submit the name of the new supervisor in writing to the board within seven days after the change in supervision takes place.

c. An applicant who has passed the examination more than ten years prior to the date of the application shall also provide evidence to the board to document proof of practice of 2080 hours in the last five years.



**201.5(3)** Applicants not meeting all requirements as set out in 201.5(2) will be required to take or retake the certification examination.

**201.5(4)** If licensed in another state, the applicant shall provide an official statement from the state licensing board of each state in which the applicant has been licensed regarding the status of the applicant's license, including issue date, expiration date, and information regarding any pending or prior disciplinary action.

**201.5(5)** An applicant for permanent licensure who will be working in Iowa in the scope of occupational therapy prior to licensure shall include on the application form the name of the Iowa-licensed occupational therapist who will be providing supervision of the applicant until the applicant is licensed. (See 201.9(6).) In the event that there is a change in the licensed occupational therapist providing supervision, the applicant shall submit the name of the person providing the supervision in writing to the board within 7 days after the change in supervision takes place. The application must be on file with the board office prior to starting employment and the application shall be completed within 90 days.

*a.* A nonresident performing occupational therapy services in this state who is not licensed under this chapter, if the services are performed for not more than 30 days in a calendar year in association with an occupational therapist licensed under this chapter, and the nonresident meets the qualifications for licensing under this chapter except for the qualifying examination.

*b.* A nonresident performing occupational therapy services in the state who is not licensed under this chapter, if the services are performed for not more than 90 days in a calendar year in association with an occupational therapist licensed under Iowa Code chapter 148B.

#### **645—201.6(148B) Limited permit.**

**201.6(1)** A limited permit to practice as an occupational therapist or as an occupational therapy assistant may be granted to persons who have completed the educational and experience requirements to be licensed as an occupational therapist or occupational therapy assistant and are waiting to take the certification examination for the first time.

**201.6(2)** A limited permit allows a limited permit holder to practice only under the supervision of an Iowa-licensed occupational therapist. Supervision of the limited permit holder is defined in 201.9(272C).

**201.6(3)** A limited permit shall be valid until the date on which the results of the next qualifying examination have been made public. This limited permit shall not be renewed if the applicant has failed the examination.

**201.6(4)** An applicant for a limited permit shall submit the limited permit application fee of \$25 and a completed application as set out in 201.2(2) except for the certification examination results.

*a.* The applicant shall include on the application the name and license number of the occupational therapist who will be providing supervision.

*b.* It is the responsibility of the limited permit holder to make arrangements to take the examination and to have the official results submitted to the board of physical and occupational therapy examiners and to submit the permanent licensure fee within 30 days of being eligible for permanent licensure.

**201.6(5)** An applicant for limited permit who will be working in Iowa in the scope of occupational therapy prior to licensure shall include on the application form the name of the Iowa-licensed occupational therapist who will be providing supervision of the applicant until the limited permit is issued. In the event that there is a change in the licensed occupational therapist providing supervision, the applicant shall submit the name of the person providing the supervision in writing to the board within 7 days after the change in supervision takes place. The application must be on file with the board office prior to starting employment and the application shall be completed within 30 days.

**201.6(6)** The applicant for limited permit shall receive the same supervision as a limited permit holder.

**645—201.7(147) License renewal.**

**201.7(1)** Beginning July 1, 1999, a license to practice as an occupational therapist or as an occupational therapy assistant shall expire every two years on the fifteenth day of the birth month. Continuing education requirements shall be completed within the same renewal period for each license holder.

An application and a continuing education report form for renewal of license to practice as an occupational therapist or as an occupational therapy assistant shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

**201.7(2)** Beginning July 1, 1999, the continuing education requirements will coincide with the renewal compliance period. The licensee shall submit to the board office 30 days before licensure expiration the application and continuing education report form with the renewal fee as specified in rule 201.8(147). Individuals who were issued their initial licenses within six months of their birth month will not be required to renew their licenses until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued. Occupational therapists will be required to report 30 hours and occupational therapy assistants 15 hours of continuing education for every renewal.

**201.7(3)** Late renewal. If the renewal fees are received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fees are received more than 30 days after the renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in rule 201.12(147). Individuals who fail to submit the renewal application and complete documentation of continuing education hours shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

**201.7(4)** Occupational therapists and occupational therapy assistants who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not engage in the practice of occupational therapy.

**645—201.8(147) License fees. All fees are nonrefundable.**

**201.8(1)** The application fee for an occupational therapist license is \$100. The application fee for an occupational therapy assistant license is \$90.

**201.8(2)** The application fee for a limited permit as provided by Iowa Code section 148B.4 is \$25.

**201.8(3)** The renewal fee for a license to practice as an occupational therapist for a biennial period is \$55. The renewal fee for a license to practice as an occupational therapy assistant for a biennial period is \$45.

**201.8(4)** Penalty fee for failure to complete and return the renewal application before the renewal expiration date is \$45 for occupational therapy assistants and \$55 for occupational therapists.

**201.8(5)** Penalty fee for failure to complete the required continuing education during the renewal period is \$50. Failure to complete and return the continuing education report by the end of the renewal period is \$50.

**201.8(6)** Reinstatement fee following inactive exemption or lapsed license is \$100.

**201.8(7)** Fee for a certified statement that a licensee is licensed in Iowa is \$10.

**201.8(8)** Fee for failure to report, in writing, change of address within 30 days is \$10.

**201.8(9)** Fee for failure to report, in writing, change of name within 30 days is \$10.

**201.8(10)** Fee for a returned check is \$15.

**201.8(11)** Fee for a duplicate or replacement license is \$10.

**645—201.9(272C) Supervision.**

**201.9(1)** The occupational therapy assistant and limited permit holder practice occupational therapy under the supervision of an occupational therapist licensed in the state of Iowa.

*a.* Supervision of the licensed occupational therapy assistant shall include a minimum of four hours per month of on-site and in-sight supervision by the occupational therapist.

*b.* Supervision of the limited permit holder shall include one-to-one supervision for a minimum of two hours per week by the occupational therapist.

**201.9(2)** Supervision of the licensed occupational therapy assistant and occupational therapy assistant limited permit holder shall include:

*a.* The evaluation of each patient by the supervising occupational therapist prior to treatment by the licensed occupational therapy assistant or limited permit holder. This time spent in evaluating the patient by the therapist shall not be considered time spent supervising.

*b.* A treatment plan written by the supervising occupational therapist outlining which elements have been delegated to the licensed occupational therapy assistant or limited permit holder.

*c.* Monitoring of patient progress by the supervising occupational therapist.

*d.* Evaluation of treatment plan and determination of treatment termination by supervising occupational therapist.

**201.9(3)** Rescinded IAB 11/29/00, effective 1/3/01.

**201.9(4)** Rescinded IAB 11/29/00, effective 1/3/01.

**201.9(5)** A supervision plan and documentation of supervision shall be kept by each occupational therapy assistant or limited permit holder and be available for review upon request of the board.

**201.9(6)** The applicant for permanent license who is already certified and working in the scope of occupational therapy prior to licensure shall receive the same supervision as set out in 201.9(1) "b" and 201.9(2) for occupational therapy assistants and 201.9(1) "b" and 201.9(3) for occupational therapists.

*a.* The applicant shall include on the application form the name of the Iowa-licensed occupational therapist who will be providing supervision until the applicant is licensed.

*b.* The application shall be completed within 90 days.

*c.* The applicant shall notify the board within seven days of any changes in supervision.

**201.9(7)** The occupational therapist shall ensure that the occupational therapy assistant, limited permit holder, or applicant is assigned only those duties and responsibilities for which the assistant, limited permit holder or applicant has been specifically trained and is qualified to perform.

**201.9(8)** When supervising unlicensed personnel not covered under 201.9(1), 201.9(2), 201.9(3) and 201.9(6), the following conditions shall be met:

*a.* Evaluation of patient by the occupational therapist.

*b.* Treatment plan determined by the occupational therapist with delegation of specific treatment responsibilities in writing.

*c.* The occupational therapist shall monitor patient progress, change treatment plan as indicated and determine termination of treatment.

**201.9(9)** Care rendered by unlicensed personnel shall not be held out as, and shall not be charged as, occupational therapy unless direct in-sight supervision is provided by an occupational therapist.

**201.9(10)** The occupational therapist shall ensure that the occupational therapy assistant or limited permit holder under the occupational therapist's supervision has a current license or limited permit to practice occupational therapy and that an applicant under the occupational therapist's supervision has a current application on file.

**645—201.10(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that a licensee is guilty of any of the following acts or offenses.

**201.10(1)** All grounds listed in Iowa Code section 147.55.

**201.10(2)** Violation of the rules promulgated by the board.

**201.10(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.

**201.10(4)** Practicing the profession while the license is suspended or lapsed.

**201.10(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

**201.10(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.

**201.10(7)** Failure to comply with the following rules of ethical conduct and practice.

*a.* An occupational therapist or occupational therapy assistant shall not practice outside the scope of the license.

*b.* When the occupational therapist or occupational therapy assistant does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment, the occupational therapist or occupational therapy assistant is obligated to assist in identifying a professionally qualified licensed practitioner to perform the service.

*c.* The practice of occupational therapy shall minimally consist of:

(1) Interpreting all referrals.

(2) Evaluating each patient.

(3) Identifying and documenting individual patient's problems and goals.

(4) Establishing and documenting a plan of care.

(5) Providing appropriate treatment.

(6) Determining the appropriate portions of the treatment program to be delegated to assistive personnel.

(7) Appropriately supervising individuals as described in rule 201.9(272C).

(8) Providing timely patient reevaluation.

(9) Maintaining timely and adequate patient records of all occupational therapy activity and patient response.

*d.* It is the responsibility of the occupational therapist to inform the referring practitioner when any requested treatment procedure is inadvisable or contraindicated. The occupational therapist shall refuse to carry out orders that are inadvisable or contraindicated and advise the referring practitioner as such.

*e.* Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain maximum therapeutic effect.

*f.* It is unethical for the occupational therapist or occupational therapy assistant to directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or to profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services.

*g.* The occupational therapist or occupational therapy assistant shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the occupational therapist or occupational therapy assistant owns stock or has any other direct or indirect financial interest.

*h.* Occupational therapists and occupational therapy assistants shall not permit another person to use their licenses for any purpose.

*i.* An occupational therapist and occupational therapy assistant shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of occupational therapy.

*j.* An occupational therapist and occupational therapy assistant shall not verbally or physically abuse a patient.

*k.* An occupational therapist and occupational therapy assistant shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

**201.10(8)** Failure to adequately supervise personnel in accordance with the standards for supervision set forth in rule 201.9(272C).

**201.10(9)** Unethical business practices, consisting of any of the following:

*a.* False or misleading advertising.

*b.* Betrayal of a professional confidence.

*c.* Falsifying a patient's records.

**201.10(10)** Failure to notify the board of a change of name or address within 30 days after it occurs.

**201.10(11)** Submission of a false report of continuing education, or failure to submit the required report of continuing education.

**201.10(12)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

**201.10(13)** Failure to comply with a subpoena issued by the board.

**201.10(14)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

**201.10(15)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by an occupational therapist or occupational therapy assistant of the reasons for disciplinary action as listed in this rule.

**201.10(16)** Obtaining a license by fraud or misrepresentation.

**201.10(17)** Conviction of a felony related to the practice of occupational therapy or the conviction of any felony that would affect the licensee's ability to practice occupational therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

**201.10(18)** Professional incompetency. Professional incompetency includes but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the occupational therapist's or occupational therapy assistant's practice;

*b.* A substantial deviation by the occupational therapist or occupational therapy assistant from the standards of learning or skill ordinarily possessed and applied by other occupational therapists and occupational therapy assistants in the state of Iowa acting in the same or similar circumstances;

*c.* A failure by an occupational therapist or occupational therapy assistant to exercise in a substantial respect that degree of care which is ordinarily exercised by the average occupational therapist or occupational therapy assistant in the state of Iowa acting in the same or similar circumstances;

*d.* A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of occupational therapy in the state of Iowa.

**201.10(19)** Inability to practice occupational therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

**201.10(20)** Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

**201.10(21)** Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

**201.10(22)** Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

- a. Reporting incorrect treatment dates for the purpose of obtaining payment;
- b. Reporting charges for services not rendered;
- c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or
- d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

**201.10(23)** Practicing without a current license or practicing when a license is lapsed.

**645—201.11(147) Reinstatement of exempted, inactive practitioners.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—201.12(147) License fees.** Renumbered as 645—201.8(147), IAB 11/29/00.

**645—201.13(272C) Supervision.** Renumbered as 645—201.9(272C), IAB 11/29/00.

**645—201.14(272C) Continuing education requirements.** Rescinded IAB 1/29/00, effective 1/3/01.

**645—201.15(272C) Standards for approval.** Rescinded IAB 1/29/00, effective 1/3/01.

**645—201.16(272C) Reporting continuing education credits.** Rescinded IAB 1/29/00, effective 1/3/01.

**645—201.17(272C) Hearings.** Rescinded IAB 1/29/00, effective 1/3/01.

These rules are intended to implement Iowa Code chapters 21, 147, 148B and 272C.

[Filed 5/26/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]

[Filed 2/8/79, Notice 10/18/78—published 3/7/79, effective 4/13/79]

[Filed 7/17/79, Notice 5/30/79—published 8/8/79, effective 9/12/79]

[Filed 1/17/80, Notice 9/5/79—published 2/6/80, effective 3/14/80]

[Filed 11/25/80, Notice 2/6/80—published 12/24/80, effective 1/31/81]

[Filed 4/23/81, Notice 3/4/81—published 5/13/81, effective 6/17/81]

[Filed 10/9/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]

[Filed 4/9/82, Notice 3/3/82—published 4/28/82, effective 6/2/82]

[Filed 4/20/83, Notice 11/24/82—published 5/11/83, effective 7/1/83]

[Filed 7/1/83, Notice 5/11/83—published 7/20/83, effective 8/25/83]

[Filed 10/6/83, Notice 7/20/83—published 10/26/83, effective 11/30/83]

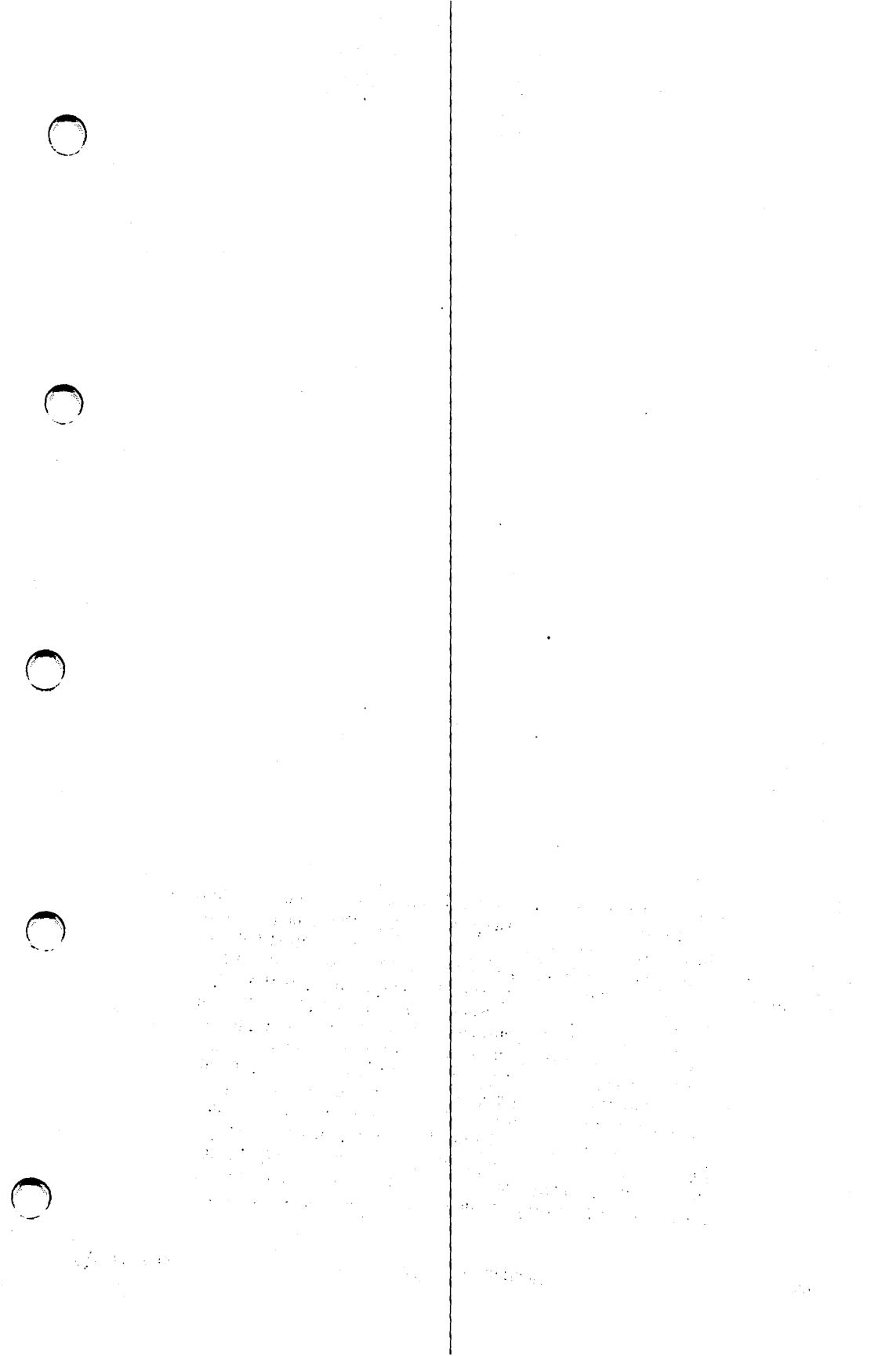
[Filed 11/10/83, Notice 9/14/83—published 12/7/83, effective 1/12/84]

[Filed 4/6/84, Notice 1/4/84—published 4/25/84, effective 5/31/84]

[Filed 9/7/84, Notice 7/18/84—published 9/26/84, effective 10/31/84]

[Filed 11/2/84, Notice 9/26/84—published 11/21/84, effective 12/26/84]

- [Filed 4/17/85, Notice 1/30/85—published 5/8/85, effective 6/12/85]
- [Filed 1/10/86, Notice 8/14/85—published 1/29/86, effective 3/6/86]
- [Filed 1/10/86, Notice 9/25/85—published 1/29/86, effective 3/6/86]
- [Filed 4/4/86, Notice 2/26/86—published 4/23/86, effective 5/28/86]
- [Filed 6/11/86, Notice 4/23/86—published 7/2/86, effective 8/6/86]
- [Filed 10/27/88, Notice 9/21/88—published 11/16/88, effective 12/21/88]
- [Filed 1/29/93, Notice 10/28/92—published 2/17/93, effective 3/24/93]
- [Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 10/6/93]
- [Filed 7/15/94, Notice 4/13/94—published 8/3/94, effective 9/7/94]
- [Filed 1/27/95, Notice 11/9/94—published 2/15/95, effective 3/23/95]
- [Filed emergency 10/4/96 after Notice 7/17/96—published 10/23/96, effective 10/4/96]
- [Filed 7/10/98, Notice 6/3/98—published 7/29/98, effective 9/2/98]
- [Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]
- [Filed 7/9/99, Notice 5/19/99—published 7/28/99, effective 9/1/99]
- [Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]





**202.4(3)** An applicant for licensure by interstate endorsement shall have successfully completed a course of study for the physical therapist assistant accredited by the commission on accreditation in education of the American Physical Therapy Association, or another appropriate accrediting body, and have passed an examination administered by the board of physical and occupational therapy examiners, and:

a. Have practiced as a physical therapist assistant for a minimum of 2,080 hours during the immediate preceding three-year time period; or

b. Have served as a full-time faculty member teaching in a physical therapist assistant program in a school of physical therapy for at least one of the immediate preceding three years; or

c. Have graduated from an approved physical therapist assistant program within a period of one year from the date of graduation to the time application is completed for licensure; or

d. Have completed 40 hours of board-approved continuing education.

**202.4(4)** Applicants shall arrange to provide the board with:

a. An official statement from each state board of examiners regarding the status of the applicant's licensure, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statements from all states in which they are currently or formerly licensed.

b. A certified copy of the scores from the appropriate professional examination.

c. Foreign trained physical therapist assistants will submit an English translation and an equivalency evaluation of their professional curriculum. Education equivalency will be evaluated by one of the following: International Education Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 66940, Los Angeles, CA 90066, telephone (213)390-6276; International Consultants of Delaware, Inc., 109 Barksdale, Professional Center, Newark, DE 19711, telephone (302)737-8715; International Credentialing Associates, South Trust Bank Building, Suite 1600, 150 Second Avenue North, St. Petersburg, FL 33701, telephone (800)367-5135. If the evaluation indicates a shortage of required credits, general education requirements must be obtained at a school accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association in other regions of the United States. The professional curriculum must be equivalent to American Physical Therapy Association standards. An applicant shall bear the expense of the curriculum evaluation.

**202.4(5)** An applicant for licensure under subrule 202.4(3), paragraphs "a" and "b," must include with this application a sworn statement of previous physical therapist assistant practice from employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced as a physical therapist assistant at least 2,080 hours or taught as a full-time faculty member for at least one of the immediately preceding years during the last three-year time period.

**202.4(6)** An applicant shall submit the required fee in the form of a check or money order made payable to the Board of Physical and Occupational Therapy Examiners.

**202.4(7)** An applicant physical therapist assistant is a person who has made application for licensure and is awaiting board action. The applicant may practice under the supervision of a licensed physical therapist for a period not to exceed three months in the case of licensure by endorsement. During this time the applicant may perform physical therapy procedures as delegated by the supervising physical therapist only under "on-site" supervision. Documentation made in physical therapy records by an applicant physical therapist assistant shall be cosigned by the supervising physical therapist.

**202.4(8)** An applicant who will be working as a physical therapist assistant prior to licensure shall include on the application form the name of the licensed, supervising physical therapist who will be providing supervision of the applicant until the applicant is licensed. In the event that there is a change of the supervising physical therapist providing supervision, the applicant shall submit the name of the therapist to the board in writing within seven days after the change in supervision takes place.

**202.4(9)** Applicants not meeting all requirements in this rule are required to meet all the requirements as set out in rule 202.3(147), including taking or retaking the appropriate physical therapist assistant professional examination.

**645—202.5** Reserved.

**645—202.6(147) License renewal.**

**202.6(1)** Beginning July 1, 1999, a license to practice as a physical therapist assistant shall expire every two years on the fifteenth day of the birth month. Continuing education requirements shall be completed within the same renewal period for each license holder.

An application and a continuing education report form for renewal of license to practice as a physical therapist assistant shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

**202.6(2)** Beginning July 1, 1999, the continuing education requirements will coincide with the renewal compliance period. The licensee shall submit to the board office, 30 days before licensure expiration, the application and continuing education report form with the renewal fee as specified in rule 202.7(147). Individuals who were issued their initial licenses within six months of their birth month will not be required to renew their licenses until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued. Individuals will be required to report 20 hours of continuing education for every renewal thereafter.

**202.6(3)** Late renewal. If the renewal fees are received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fees are received more than 30 days after the renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in rule 202.7(147). Individuals who fail to submit the renewal application and complete documentation of continuing education hours shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

**202.6(4)** Physical therapist assistants who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not practice as a physical therapist assistant.

**645—202.7(147) License fees.** All fees are nonrefundable.

**202.7(1)** The application fee for a license to practice as a physical therapist assistant issued upon the basis of examination or endorsement is \$90 in check or money order made payable to the Board of Physical and Occupational Therapy Examiners. There is an additional fee for the examination. The fee for the examination is listed on the application form.

**202.7(2)** The renewal fee for a license to practice physical therapy for a biennial period is \$45.

**202.7(3)** Penalty fee for failure to complete and return the physical therapist assistant renewal application before the renewal expiration date is \$45.

**202.7(4)** Penalty fee for failure to complete the required continuing education during the renewal period is \$50. Failure to complete and return the continuing education report by the end of the renewal period is \$50.

**202.7(5)** Reinstatement fee following inactive exemption and lapsed license is \$100.

**202.7(6)** Fee for certified statement that a licensee is licensed in Iowa is \$10.

**202.7(7)** Fee for failure to report, in writing, change of address after 30 days is \$10.

**202.7(8)** Fee for failure to report, in writing, change of name within 30 days is \$10.

**202.7(9)** Fee for a duplicate or replacement license is \$10.

**202.7(10)** Fee for a returned check is \$15.

**645—202.8(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in these rules, including civil penalties in an amount not to exceed \$1,000, when the board determines that the licensee is guilty of any of the following acts or offenses.

**202.8(1)** All grounds listed in Iowa Code section 147.55.

**202.8(2)** Violation of the rules promulgated by the board.

**202.8(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.

**202.8(4)** Practicing the profession while the license is suspended or lapsed.

**202.8(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

**202.8(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.

**202.8(7)** Failure to comply with the following rules of ethical conduct and practice.

*a.* A physical therapist assistant shall not practice outside the scope of the license.

*b.* When the physical therapist assistant does not possess the skills or knowledge to perform the delegated tasks, the physical therapist assistant is obligated to inform the delegating physical therapist and refuse to perform the delegated tasks.

*c.* The physical therapist assistant shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the physical therapist owns stock or has any other direct or indirect financial interest.

*d.* Physical therapist assistants shall not permit another person to use their licenses for any purpose.

*e.* A physical therapist assistant shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of physical therapy.

*f.* A physical therapist assistant shall not verbally or physically abuse a patient.

*g.* A physical therapist assistant shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

*h.* The physical therapist assistant shall work only when supervised by a physical therapist and in accordance with rule 645—200.11(272C). If the available supervision does not meet the standards as set forth in rule 645—200.11(272C), the physical therapist assistant shall refuse to administer treatment.

*i.* The signature of the physical therapist assistant on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

**202.8(8)** Unethical business practices, consisting of any of the following:

*a.* False or misleading advertising.

*b.* Betrayal of a professional confidence.

*c.* Falsifying patient's records.

**202.8(9)** Failure to notify the board of a change of name or address within 30 days after it occurs.  
**202.8(10)** Submission of a false report of continuing education, or failure to submit the required report of continuing education.

**202.8(11)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

**202.8(12)** Failure to comply with a subpoena issued by the board.

**202.8(13)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

**202.8(14)** Failure to report to the board as provided in Iowa Code section 272C.9 any violation by a physical therapist of the reasons for disciplinary action as listed in rule 645—13.1(272C).

**202.8(15)** Obtaining a license by fraud or misrepresentation.

**202.8(16)** Conviction of a felony related to the practice of physical therapy or the conviction of any felony that would affect the licensee's ability to practice physical therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

**202.8(17)** Professional incompetency. Professional incompetency includes but is not limited to:

- A substantial lack of knowledge or ability to discharge professional obligations within the physical therapist assistant's practice;

- A substantial deviation by the physical therapist assistant from the standards of learning or skill ordinarily possessed and applied by other physical therapist assistants in the state of Iowa acting in the same or similar circumstances;

- A failure by a physical therapist assistant to exercise that degree of care which is ordinarily exercised by the average physical therapist assistant in the state of Iowa acting in the same or similar circumstances;

- A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of physical therapy in the state of Iowa.

**202.8(18)** Inability to practice physical therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

**202.8(19)** Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

**202.8(20)** Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

**202.8(21)** Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

- Reporting incorrect treatment dates for the purpose of obtaining payment;

- Reporting charges for services not rendered;

- Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

- Aiding a patient in fraudulently obtaining payment from a third-party payer.

**202.8(22)** Practicing without a current license or practicing when a license is lapsed.

**645—202.9(147) Reinstatement of lapsed license.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—202.10(147) License fees.** Renumbered as 645—202.7(147), IAB 11/29/00.

**645—202.11(272C) Continuing education requirements.** Rescinded IAB 11/29/00, effective 1/3/01.

645—202.12(272C) **Standards for approval.** Rescinded IAB 11/29/00, effective 1/3/01.

645—202.13(272C) **Reporting continuing education credits.** Rescinded IAB 11/29/00, effective 1/3/01.

645—202.14(272C) **Hearings.** Rescinded IAB 11/29/00, effective 1/3/01.

645—202.15(272C) **Disability or illness.** Rescinded IAB 11/29/00, effective 1/3/01.

645—202.16 to 202.22 Reserved.

645—202.23(272C) **Grounds for discipline.** Renumbered as 645—202.8(272C), IAB 11/29/00.

645—202.24(272C) **Supervision requirements.** The board adopts herein by reference rule 645—200.11(272C).

These rules are intended to implement Iowa Code chapters 147 and 272C.

[Filed 10/25/91, Notice 9/4/91—published 11/13/91, effective 12/18/91]

[Filed 4/14/92, Notice 2/5/92—published 5/13/92, effective 6/17/92]

[Filed 7/17/92, Notice 5/13/92—published 8/5/92, effective 9/9/92]

[Filed 10/1/92, Notice 6/24/92—published 10/28/92, effective 12/2/92]

[Filed 6/4/93, Notice 2/17/93—published 6/23/93, effective 7/28/93]

[Filed 8/13/93, Notice 6/23/93—published 9/1/93, effective 10/6/93]

[Filed 1/27/94, Notice 12/8/93—published 2/16/94, effective 3/23/94]

[Filed 7/15/94, Notice 4/13/94—published 8/3/94, effective 9/7/94]

[Filed 2/22/96, Notice 12/20/95—published 3/13/96, effective 4/17/96]

[Filed emergency 10/23/96, after Notice 7/17/96—published 10/23/96, effective 10/4/96]

[Filed 8/8/97, Notice 5/21/97—published 8/27/97, effective 10/1/97]

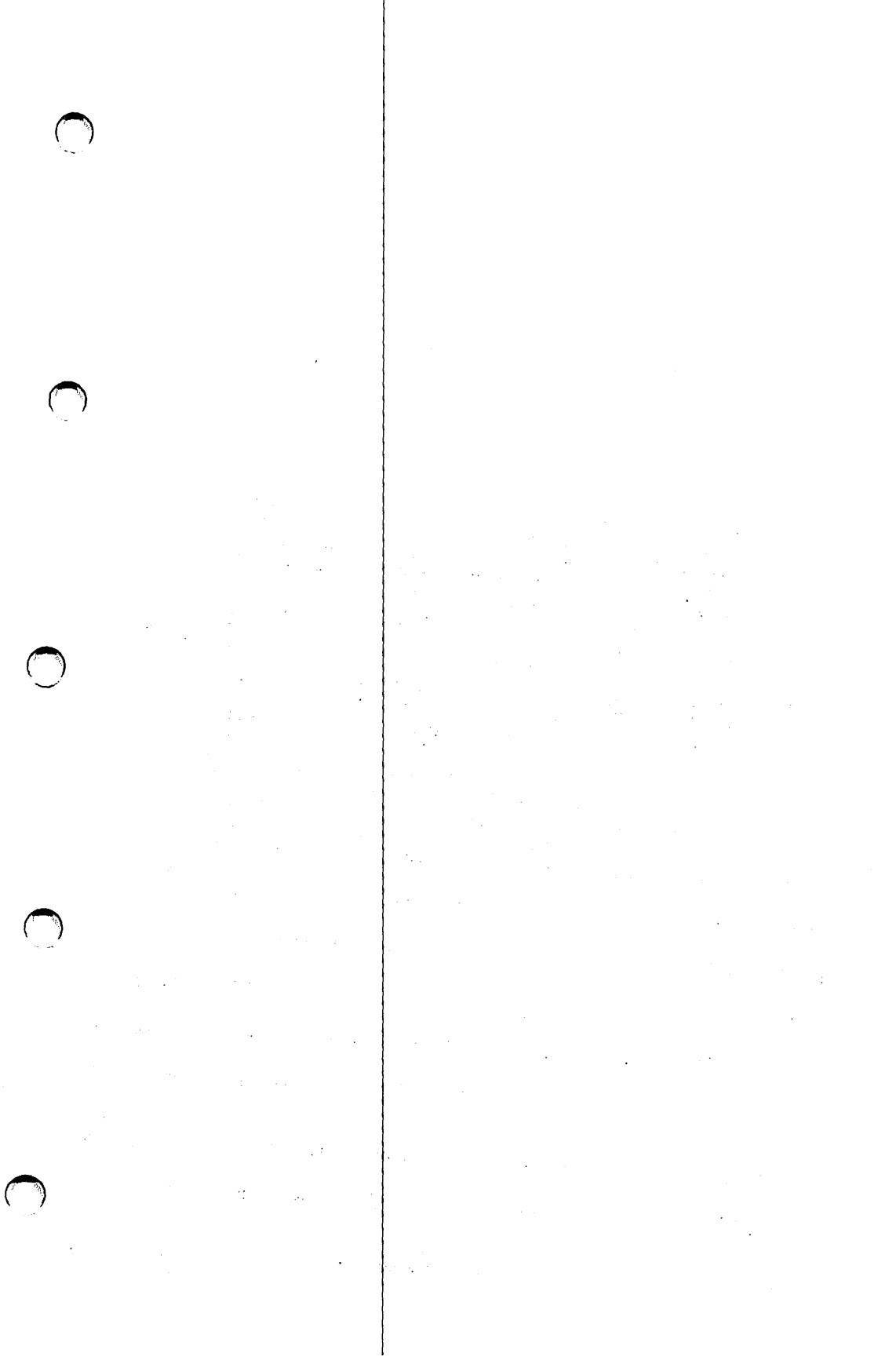
[Filed 3/24/98, Notice 2/11/98—published 4/22/98, effective 5/27/98]

[Filed emergency 5/15/98—published 6/3/98, effective 5/27/98]

[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

[Filed 7/9/99, Notice 5/19/99—published 7/28/99, effective 9/1/99]

[Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]



CHAPTER 203  
CONTINUING EDUCATION FOR PHYSICAL THERAPISTS  
AND PHYSICAL THERAPIST ASSISTANTS

**645—203.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

“*Administrator*” means the administrator of the board of physical and occupational therapy examiners.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of physical and occupational therapy examiners.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means a clock hour spent by a licensee in actual attendance at and completion of approved continuing education activity.

“*Inactive license*” means the license of a person who is not engaged in practice in the state of Iowa.

“*Lapsed license*” means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

**645—203.2(148A) Continuing education requirements.**

**203.2(1)** The biennial continuing education compliance period shall extend for a two-year period that begins on the fifteenth day of the birth month and ending two years later on the fifteenth day of the birth month.

a. Requirements for physical therapist licensees. Each biennium, each person who is licensed to practice as a physical therapist in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

b. Requirements for physical therapist assistant licensees. Each biennium, each person who is licensed to practice as a physical therapist assistant in this state shall be required to complete a minimum of 20 hours of continuing education approved by the board.

**203.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for physical therapists and a minimum of 20 hours for physical therapist assistants each subsequent license renewal.

**203.2(3)** Reinstated licensees and licensees through interstate endorsement shall obtain 40 hours of continuing education credit for physical therapists and 20 hours for physical therapist assistants for renewal of the license if the license is obtained in the first year of the continuing education biennium. Reinstated licensees and licensees through interstate endorsement shall obtain 20 hours for physical therapists and 10 hours for physical therapist assistants if the license is obtained in the second year of the continuing education biennium. Reinstated licensees and licensees through interstate endorsement may use continuing education earned prior to licensure in Iowa, but within the same continuing education biennium in which they obtained Iowa licensure, to fulfill this requirement.

**203.2(4)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must meet the requirements herein pursuant to statutory provisions and the rules that implement them.

**203.2(5)** No hours of continuing education shall be carried over into the next biennium.

**203.2(6)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—203.3(148A) Standards for approval.**

**203.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program, and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
  - (1) Date, location, course title, presenter(s);
  - (2) Number of program contact hours (One contact hour usually equals one hour of continuing education credit.); and
  - (3) Official signature or verification by program sponsor.

**203.3(2) Specific criteria.** Licensees may obtain continuing education hours of credit by:

- a. Presenting professional programs which meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.
- b. Providing official transcripts indicating successful completion of academic courses which apply to the field of physical therapy in order to receive the following continuing education credits:
  - 1 academic semester hour = 15 continuing education hours of credit
  - 1 academic trimester hour = 12 continuing education hours of credit
  - 1 academic quarter hour = 10 continuing education hours of credit
- c. Attending workshops, conferences, symposiums or electronically transmitted, live interactive conferences which relate directly to the professional competency of the licensee.
- d. Authoring research or other activities the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page.
- e. Viewing videotaped presentations if the following criteria are met:
  - (1) There is a sponsoring group or agency;
  - (2) There is a facilitator or program official present;
  - (3) The program official may not be the only attendee; and
  - (4) The program meets all the criteria specified in this rule.
- f. Participating in home study courses that have a certificate of completion.
- g. Participating in courses that have business-related topics: marketing, time management, government regulations, and other like topics.
- h. Participating in courses that have personal skills topics: career burnout, communication skills, human relations, and other like topics.



- i.* Participating in courses that have general health topics: clinical research, CPR, child abuse reporting, and other like topics.
- j.* Having the following maximums per biennium:
  - (1) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for presenting professional programs.
  - (2) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for authoring research.
  - (3) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for viewing videotaped presentations and electronically transmitted material that have a postcourse test.
  - (4) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for business-related topics, personal skills topics and general health topics.
  - (5) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for home study courses.
- k.* Completing per biennium continuing education of a clinical nature at a minimum of twenty hours for physical therapists and ten hours for physical therapist assistants.

**645—203.4(148A) Reporting continuing education by licensee.** At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

**203.4(1)** The information on the form shall include:

- a.* Title of continuing education activity;
- b.* Date(s);
- c.* Sponsor of the activity;
- d.* Board-approved sponsor number (if applicable); and
- e.* Number of continuing education hours earned.

**203.4(2)** Audit of continuing education report. After each educational biennium, the board shall audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

- a.* The board will select licensees to be audited.
- b.* The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:
  - (1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s) and applicable credentials), and method of presentation;
  - (2) Number of contact hours for program attended; and
  - (3) Indication of the successful completion of the course.
- c.* For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.
- d.* Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.
- e.* All renewal license applications that are submitted late (after the end of the compliance period) may be subject to an audit of the continuing education report.
- f.* Failure to receive the renewal application shall not relieve the licensee of the responsibility of meeting the continuing education requirements and submitting the renewal fee by the end of the compliance period.

**645—203.5(148A) Reinstatement of lapsed license.** Failure of the licensee to renew within 30 days after the expiration date shall cause the license to lapse. A person who allows a license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
  2. Pays all of the renewal fees then due;
  3. Pays all penalty fees which have been assessed by the board for failure to renew;
  4. Pays the reinstatement fee; and
  5. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 40 for physical therapist licensees and 20 for physical therapist assistant licensees by the number of bienniums since the license lapsed. Physical therapist licensees shall have a maximum of 120 continuing education hours, and physical therapist assistants shall have a maximum of 60 continuing education hours.
6. The applicant shall provide an official statement from each country, territory and state board of examiners regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant has been licensed since the Iowa license lapsed.

**645—203.6(148A,272C) Continuing education waiver for active practitioners.** A physical therapist or physical therapist assistant licensed to practice physical therapy shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing physical therapist or physical therapist assistant.

**645—203.7(148A,272C) Continuing education exemption for inactive practitioners.** A licensee who is not engaged in practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of waiver shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

**645—203.8(148A,272C) Continuing education waiver for disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant a waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—203.9(148A,272C) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and have obtained a certificate of exemption shall, prior to engaging in the practice of physical therapy in the state of Iowa, satisfy the following requirements for reinstatement:

**203.9(1)** Submit written application for reinstatement to the board upon forms provided by the board with the current renewal fee and appropriate reinstatement fee; and

**203.9(2)** Furnish in the application evidence of one of the following:

*a.* Full-time practice in another state of the United States or the District of Columbia and completion of continuing education for each biennium of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

*b.* Completion of a total number of hours of approved continuing education computed by multiplying 40 for physical therapist licensees or 20 for physical therapist assistant licensees by the number of bienniums a certificate of exemption has been in effect for such applicant for a maximum of 120 hours for physical therapy licensees and a maximum of 60 hours for physical therapist assistant licensees; or

*c.* Successful completion of the professional examination required for initial licensure within one year immediately prior to the submission of such application for reinstatement; and

**203.9(3)** Submit an official statement from each country, territory and state board of examiners regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant has been licensed since putting the Iowa license on inactive status.

**645—203.10(272C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education activity for continuing education credit, the applicant or licensee shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

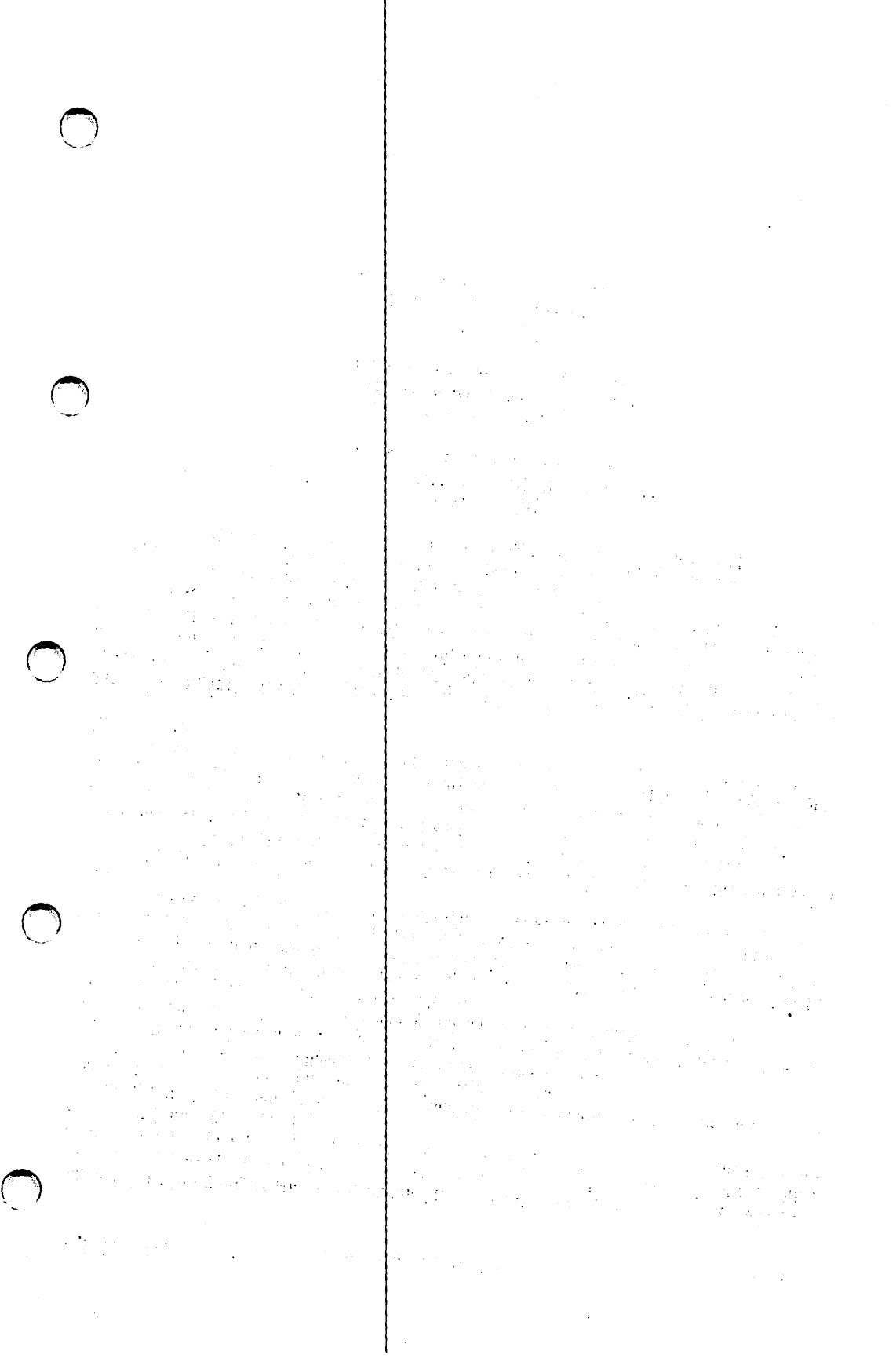
These rules are intended to implement Iowa Code section 272C.2 and chapter 148A.

[Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]

CHAPTER 204  
IMPAIRED PRACTITIONER REVIEW COMMITTEE  
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 205  
CHILD SUPPORT NONCOMPLIANCE  
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 206  
PETITIONS FOR RULE MAKING  
Rescinded IAB 6/30/99, effective 8/4/99



CHAPTER 207  
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS  
AND OCCUPATIONAL THERAPY ASSISTANTS

**645—207.1(148B) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

“*Administrator*” means the administrator of the board of physical and occupational therapy examiners.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of physical and occupational therapy examiners.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means a clock hour spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means the license of a person who is not engaged in practice in the state of Iowa.

“*Lapsed license*” means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

**645—207.2(272C) Continuing education requirements.**

**207.2(1)** The biennial continuing education compliance period shall extend for a two-year period that begins on the fifteenth day of the licensee’s birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for occupational therapist licensees. Each biennium, each person who is licensed to practice as an occupational therapist in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board.

b. Requirements for occupational therapy assistant licensees. Each biennium, each person who is licensed to practice as an occupational therapy assistant in this state shall be required to complete a minimum of 15 hours of continuing education approved by the board.

**207.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for occupational therapists and 15 hours for occupational therapy assistants each subsequent license renewal.

**207.2(3)** Reinstated licensees and licensees through interstate endorsement shall obtain 30 hours of continuing education credit for occupational therapists and 15 hours for occupational therapy assistants for renewal of the license if the license is obtained in the first year of the continuing education biennium. Reinstated licensees and licensees through interstate endorsement shall obtain 15 hours for occupational therapists and 8 hours for occupational therapy assistants if the license is obtained in the second year of the continuing education biennium. Reinstated licensees and licensees through interstate endorsement may use continuing education earned prior to licensure in Iowa, but within the same continuing education biennium in which they obtained Iowa licensure, to fulfill this requirement.

**207.2(4)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must meet the requirements herein pursuant to statutory provisions and the rules that implement them.

**207.2(5)** No hours of continuing education shall be carried over into the next biennium.

**207.2(6)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—207.3(272C) Standards for approval.**

**207.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program, and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
  - (1) Date, location, course title, presenter(s);
  - (2) Number of program contact hours (One contact hour usually equals one hour of continuing education credit.); and
  - (3) Official signature or verification by program sponsor.

**207.3(2) Specific criteria.**

- a. Licensees may obtain continuing education hours of credit by:
  - (1) Presenting professional programs which meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for an audit;
  - (2) Providing official transcripts indicating successful completion of academic courses which apply to the field of occupational therapy. Credit hour equivalents are:
    - 1 academic semester hour = 15 continuing education hours of credit
    - 1 academic trimester hour = 12 continuing education hours of credit
    - 1 academic quarter hour = 10 continuing education hours of credit
  - (3) Authoring research or other activities the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page;
  - (4) Viewing videotaped presentations if the following criteria are met:
    1. There is a sponsoring group or agency;
    2. There is a facilitator or program official present;
    3. The program official may not be the only attendee; and
    4. The program meets all the criteria specified in this rule;
  - (5) Participating in home study courses that have a certificate of completion;
  - (6) Attending courses/activities that have business-related topics: marketing, time management, government regulations, and other like topics;
  - (7) Attending courses/activities that have personal skills topics: career burnout, communication skills, human relations, and other like topics;
  - (8) Attending courses/activities that have general health topics: clinical research, CPR, child abuse reporting, and other like topics;
  - (9) Attending workshops, conferences and symposiums which relate directly to the professional competency of the licensee.

b. The maximum number of hours in each category in each biennium is as follows:

(1) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for presenting professional programs.

(2) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for participating in research.

(3) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for viewing videotaped presentations and electronically transmitted material that have a postcourse test.

(4) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for business-related topics, personal skills topics and general health topics.

(5) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for home study courses.

c. Each biennium, a minimum of 15 hours of continuing education for occupational therapists and a minimum of 8 hours for occupational therapy assistants shall be of a clinical nature.

**645—207.4(272C) Reporting continuing education by licensee.** At the time of license renewal, each licensee shall be required to submit a report of continuing education to the board on a board-approved form.

**207.4(1)** The information on the form shall include:

a. Title of continuing education activity;

b. Date(s);

c. Sponsor of the activity;

d. Board-approved sponsor number (if applicable);

e. Number of continuing education hours earned; and

f. Teaching method used.

**207.4(2)** Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

a. The board will select licensees to be audited.

b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:

(1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s) and their credentials), and method of presentation;

(2) Number of contact hours for program attended; and

(3) Indication of the successful completion of the course.

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to an audit of the continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of the responsibility of meeting the continuing education requirements and submitting the renewal fee by the end of the compliance period.

**645—207.5(147) Reinstatement of lapsed license.** Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows a license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the renewal fees then due;
3. Pays all penalty fees which have been assessed by the board for failure to renew;
4. Pays the reinstatement fee; and
5. Provides an official statement from each country, territory and state board of examiners regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant has been licensed since the Iowa license lapsed; or
6. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 30 for the occupational therapist licensees and 15 for occupational therapy assistant licensees by the number of bienniums since the license lapsed. Occupational therapist licensees shall have a maximum of 90 hours of continuing education and occupational therapy assistant licensees shall have a maximum of 45 hours of continuing education.

**645—207.6(272C) Continuing education waiver for active practitioners.** An occupational therapist or occupational therapy assistant licensed to practice occupational therapy or occupational therapy assistance shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing occupational therapist or occupational therapy assistant.

**645—207.7(272C) Continuing education exemption for inactive practitioners.** A licensee who is not engaged in practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

**645—207.8(272C) Continuing education waiver for disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant a waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.



**645—207.9(272C) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of waiver shall, prior to engaging in the practice of occupational therapy in the state of Iowa, satisfy the following requirements for reinstatement.

**207.9(1)** Reinstatement of the inactive license may be granted by the board if the applicant:

- a. Submits a written application for reinstatement to the board;
- b. Pays all renewal fees then due;
- c. Pays the reinstatement fee; and
- d. Provides an official statement from each country, territory and state board of examiners regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant has been licensed since putting the Iowa license on inactive status.

**207.9(2)** The applicant shall furnish in the application evidence of one of the following:

- a. Full-time practice in another state of the United States or the District of Columbia and completion of continuing education for each biennium of inactive status substantially equivalent in the opinion of the board to that required under these rules; or
- b. Completion of a total number of hours of approved continuing education computed by multiplying 30 for occupational therapist licensees or 15 for occupational therapy assistant licensees by the number of bienniums a certificate of exemption has been in effect for such applicant. The occupational therapy licensees shall have a maximum of 90 hours of continuing education and occupational therapy assistants shall have a maximum of 45 hours of continuing education; or
- c. Successful completion of the appropriate professional examination, successfully completed within one year immediately prior to the submission of such application for reinstatement.

**645—207.10(272C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education activity for continuing education credit, the applicant or licensee shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 148B.

[Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]

CHAPTER 208  
AGENCY PROCEDURE FOR RULE MAKING

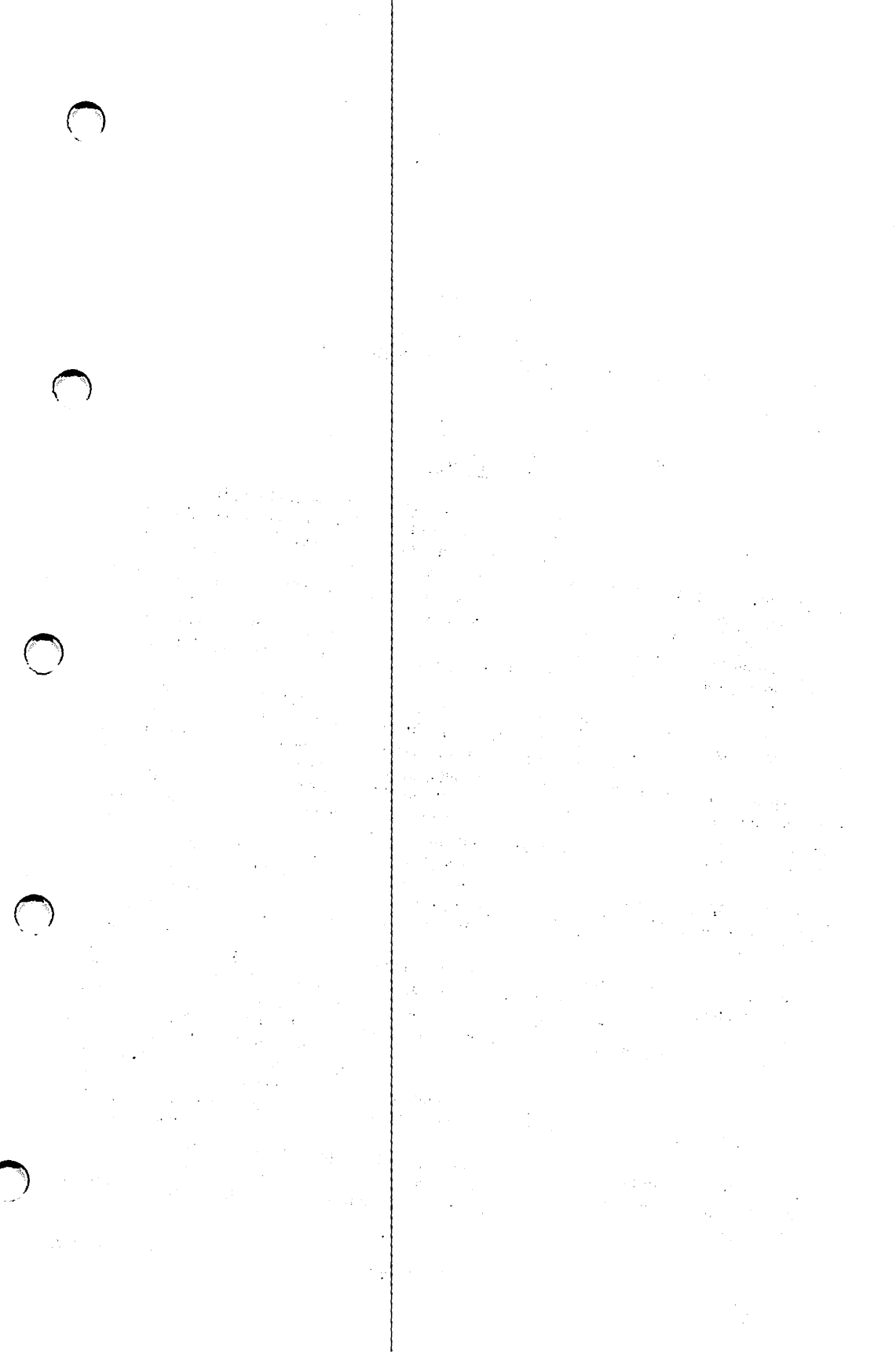
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 209  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 210 to 219

Reserved



(1) If the plan is not initiated, the board shall be notified in writing within 30 days of the anticipated start date.

(2) Any change made to the plan must be submitted to the board in writing for approval within 30 days of the change.

(3) If the plan is discontinued, the supervised clinical experience report should be completed and submitted to the board within 30 days of discontinuing the plan.

**300.4(3) Temporary permit.** A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology for a period not to exceed three months by submitting documents to support the need for such a permit and documents to show that the applicant has substantially the same qualifications as required for a license. The application for temporary permit must be received by the board at least 30 days prior to the date the applicant intends to begin practice.

#### **645—300.5(147) Licensure by interstate endorsement.**

**300.5(1)** An out-of-state applicant seeking a license to practice speech pathology or audiology in Iowa is required to complete the same application as that required in subrule 300.4(1) except that the board may waive the examination requirement if the applicant has a license which was obtained by examination and if, in the opinion of the board, the examination and the examination score were essentially the same as for Iowa.

**300.5(2)** An out-of-state applicant shall, in addition, submit certification of all licenses obtained in another state. The certification shall include the license number, date issued, expiration date and whether any disciplinary action has been taken. If a license or certificate has ever been revoked or suspended, the applicant shall furnish a sworn statement detailing the circumstances.

#### **645—300.6(147) License renewal.**

**300.6(1)** The biennial license renewal period for a license to practice as a speech pathologist or audiologist shall extend from January 1 of each even-numbered year until December 31 of the next odd-numbered year. Continuing education requirements shall be completed within the same renewal period for each license holder.

An application and a continuing education report form for renewal of license to practice as a speech pathologist or audiologist shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

**300.6(2)** Beginning January 1, 2000, the continuing education requirements will coincide with the renewal compliance period. The licensee shall submit to the board office 30 days before licensure expiration the application and continuing education report form with the renewal fee as specified in rule 300.7(147). Individuals who were issued their initial licenses within six months of the start of the next renewal period will not be required to renew their licenses until the next renewal two years later. The new licensee is exempt from meeting the continuing education requirements for the continuing education biennium in which the license is originally issued. Individuals will be required to report 30 hours of continuing education for every renewal thereafter.

**300.6(3)** Late renewal. If the renewal fees are received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fees are received more than 30 days after the renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in rule 300.7(147). Individuals who submit the renewal application and complete documentation of continuing education hours after the end of the compliance period shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

**300.6(4)** Speech pathologists and audiologists who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not engage in the practice of speech pathology or audiology.

**645—300.7(147) Licensure fees.** All fees are nonrefundable.

**300.7(1)** The application fee for a license to practice speech pathology or audiology is \$105, the application fee for a temporary clinical license is \$65, and the application fee for a temporary permit is \$25.

**300.7(2)** The renewal fee of a license to practice speech pathology or audiology for a biennial period is \$80. The annual renewal fee for a temporary clinical license is \$40.

**300.7(3)** The penalty fee for failure to renew a license within 30 days following its expiration is \$40.

**300.7(4)** The reinstatement fee for a lapsed license or to reinstate a license under certificate of exemption status is \$25.

**300.7(5)** The fee for certification of Iowa license is \$10.

**300.7(6)** The fee for license replacement is \$10.

**300.7(7)** The penalty fee for failure to obtain the required continuing education within the compliance period is \$25.

**300.7(8)** The penalty fee for failure to notify the board office of an address change within 30 days is \$15. If the penalty is not paid by the time of license renewal, the license may not be renewed.

**300.7(9)** Licensees who submit their continuing education report form after the deadline shall be assessed a \$25 late fee and their reports will be audited.

**300.7(10)** Fee for a returned check is \$15.

**645—300.8(147) Organization of board of speech pathology and audiology examiners.**

**300.8(1) Chair.**

a. Shall be selected by the members of the board.

b. Shall preside at all meetings of the board and conduct the meeting following Robert's Rules of Order.

c. Shall appoint committees as is deemed necessary to study issues.

**300.8(2) Vice-chair.**

a. Shall be selected by the members of the board.

b. Shall act in capacity of chair in the absence of that officer.

**300.8(3) Secretary.**

a. Shall be selected by the members of the board.

b. Shall act in capacity of chair in the absence of officers representing the chair and vice-chair.

c. Shall keep an accurate and complete record of all transactions of the board.

**300.8(4) Quorum.** Four members of the seven-member board shall represent a quorum. Business shall not be conducted in the absence of a quorum.

**645—300.9(272C) Reinstatement of inactive practitioners.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—300.10(272C) Reinstatement of lapsed license.** Rescinded IAB 11/29/00, effective 1/3/01.

These rules are intended to implement Iowa Code chapters 147 and 272C.

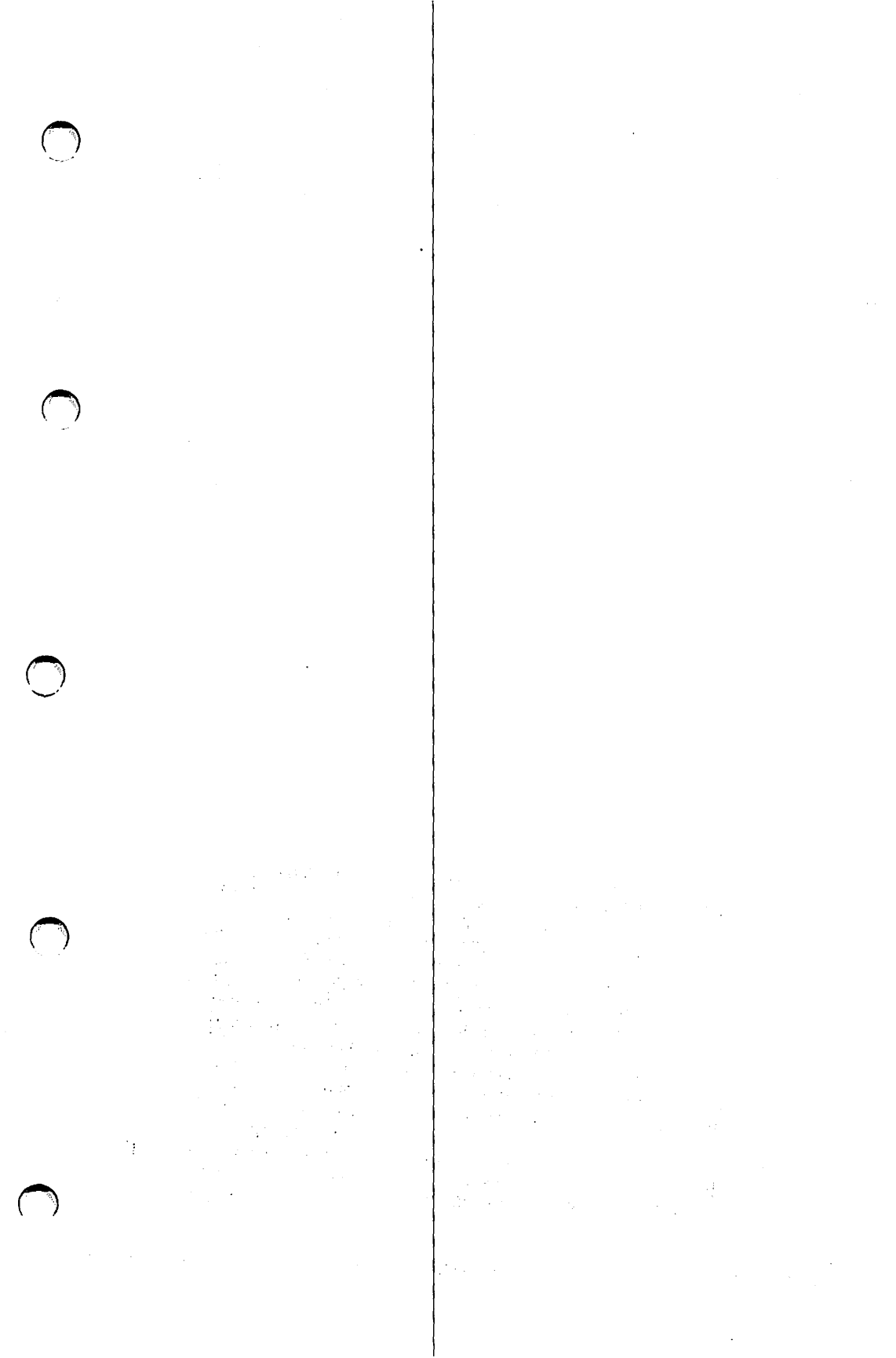
[Filed 2/2/77, Notice 12/29/76—published 2/23/77, effective 3/30/77]

[Filed emergency 8/14/81—published 9/2/81, effective 8/14/81]

[Filed 8/28/81, Notice 3/4/81—published 9/16/81, effective 10/21/81]

[Filed 10/22/82, Notice 8/18/82—published 11/10/82, effective 12/17/82]

- [Filed 1/14/83, Notice 11/24/82—published 2/2/83, effective 3/11/83]
- [Filed 6/15/83, Notice 4/13/83—published 7/6/83, effective 8/11/83]
- [Filed emergency 11/1/83 after Notice 9/14/83—published 11/23/83, effective 11/1/83]
- [Filed 1/21/85, Notice 11/21/84—published 2/13/85, effective 3/20/85]
- [Filed 6/18/86, Notice 4/9/86—published 7/16/86, effective 8/20/86]
- [Filed 7/29/88, Notice 3/23/88—published 8/24/88, effective 9/28/88]
- [Filed 7/29/88, Notice 5/4/88—published 8/24/88, effective 9/28/88]
- [Filed 6/9/89, Notice 2/8/89—published 6/28/89, effective 8/2/89]
- [Filed 4/12/91, Notice 1/9/91—published 5/1/91, effective 6/5/91]
- [Filed 8/1/91, Notice 5/1/91—published 8/21/91, effective 9/25/91]
- [Filed 11/22/91, Notice 8/21/91—published 12/11/91, effective 1/15/92]
- [Filed 1/29/93, Notice 9/30/92—published 2/17/93, effective 4/1/93]
- [Filed 2/23/94, Notice 12/8/93—published 3/16/94, effective 4/22/94]
- [Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]
- [Filed 2/15/00, Notice 12/15/99—published 3/8/00, effective 4/12/00]
- [Filed 11/9/00, Notice 9/20/00—published 11/29/00, effective 1/3/01]



CHAPTER 301  
DISCIPLINARY PROCEDURES FOR SPEECH PATHOLOGISTS  
AND AUDIOLOGISTS

[Prior to 9/9/87, Health Department[470], Ch 156]

**645—301.1(272C) Grounds for discipline.**

**301.1(1)** The board may impose any of the disciplinary sanctions set forth in 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that a licensee is guilty of any of the following acts or offenses:

- 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 the licensee's 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 Iowa Code chapter 147.

**301.1(2)** Violation of the rules promulgated by the board.

**301.1(3)** Violation of the following code of ethics:

- a. Claims of expected clinical results shall be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.
- b. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.
- c. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.
- d. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, or age.
- e. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances shall be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.
- f. Licensees who dispense products to persons served professionally shall observe the following standards:
  1. Products associated with professional practice must be dispensed to the person served as a part of a program of comprehensive habilitative care.
  2. Fees established for professional services must be independent of whether a product is dispensed.
  3. Persons served must be provided freedom of choice for the source of services and products.
  4. Price information about professional services rendered and products dispensed must be disclosed by providing to or posting for persons served a complete schedule of fees and charges in advance of rendering services, which schedule differentiates between fees for professional services and charges for products dispensed.

g. Failure to comply with Food and Drug Administration rules 21 CFR §801.420 (April 1, 1981) "Hearing aid devices; professional and patient labeling" and 21 CFR §801.421 (April 1, 1981) "Hearing aid devices, conditions for sale."

**301.1(4) 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.

**301.1(5) Practicing the profession while the license is suspended.**

**301.1(6) Suspension or revocation of license by another state.**

**301.1(7) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.**

**301.1(8) 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 the licensee's license for any purpose.

c. Practice outside the scope of a license.

d. Verbally or physically abusing clients.

**301.1(9) Unethical business practices, consisting of any of the following:**

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying clients' records.

d. Billing for services which were not rendered, or charging fees which are inconsistent with any prior agreements reached with the clients.

**301.1(10) Failure to report a change of name or address within 30 days after it occurs.**

**301.1(11) Submission of a false report of continuing education or failure to submit the annual report of continuing education.**

**301.1(12) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.**

**301.1(13) Failure to comply with a subpoena issued by the board.**

This rule is intended to implement Iowa Code sections 272C.3 and 272C.4.

**645—301.2(272C) Continuing education requirements.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—301.3(272C) Standards for accreditation of sponsors and approval of continuing education activities.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—301.4(272C) Procedures for accreditation of sponsors and review of continuing education activities.** Rescinded IAB 11/29/00, effective 1/3/01.



**645—301.5(272C) Reporting continuing education credits.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—301.6(272C) Disability or illness.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—301.7(272C) Hearings.** Rescinded IAB 11/29/00, effective 1/3/01.

**645—301.8 to 301.99** Reserved.

**645—301.100(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

**301.100(1) “Board”** means the board of speech pathology and audiology examiners.

**301.100(2) “Licensee”** means any person licensed to practice as a speech pathologist or audiologist or both in the state of Iowa.

These rules are intended to implement Iowa Code sections 272C.2, 272C.4, 272C.5, 272C.6, 17A.10 and 17A.17.

[Filed 6/23/78, Notice 12/28/77—published 7/12/78, effective 8/16/78]

[Filed 3/20/79, Notice 10/18/78—published 4/18/79, effective 6/1/79]

[Filed emergency 5/23/79—published 6/13/79, effective 7/1/79]

[Filed 6/6/79, Notice 4/18/79—published 6/27/79, effective 8/1/79]

[Filed 8/28/81, Notice 3/4/81—published 9/16/81, effective 10/21/81]

[Filed 12/16/81, Notice 9/16/81—published 1/6/82, effective 2/12/82]

[Filed 10/22/82, Notice 8/18/82—published 11/10/82, effective 12/17/82]

[Filed emergency 11/15/84—published 12/5/84, effective 11/15/84]

[Filed 11/16/84, Notice 10/10/84—published 12/5/84, effective 1/9/85]

[Filed 1/10/86, Notice 7/17/85—published 1/29/86, effective 3/6/86]

[Filed 12/10/86, Notice 7/16/86—published 12/31/86, effective 2/4/87]

[Filed emergency 8/21/87—published 9/9/87, effective 9/1/87]

[Filed 6/9/89, Notice 2/8/89—published 6/28/89, effective 8/2/89]

[Filed 7/26/90, Notice 6/13/90—published 8/22/90, effective 9/26/90]

[Filed 4/12/91, Notice 1/9/91—published 5/1/91, effective 6/5/91]

[Filed 8/1/91, Notice 5/1/91—published 8/21/91, effective 9/25/91]

[Filed 11/22/91, Notice 8/21/91—published 12/11/91, effective 1/15/92]

[Filed 8/14/92, Notice 4/15/92—published 9/2/92, effective 10/7/92]

[Filed 2/23/94, Notice 12/8/93—published 3/16/94, effective 4/22/94]

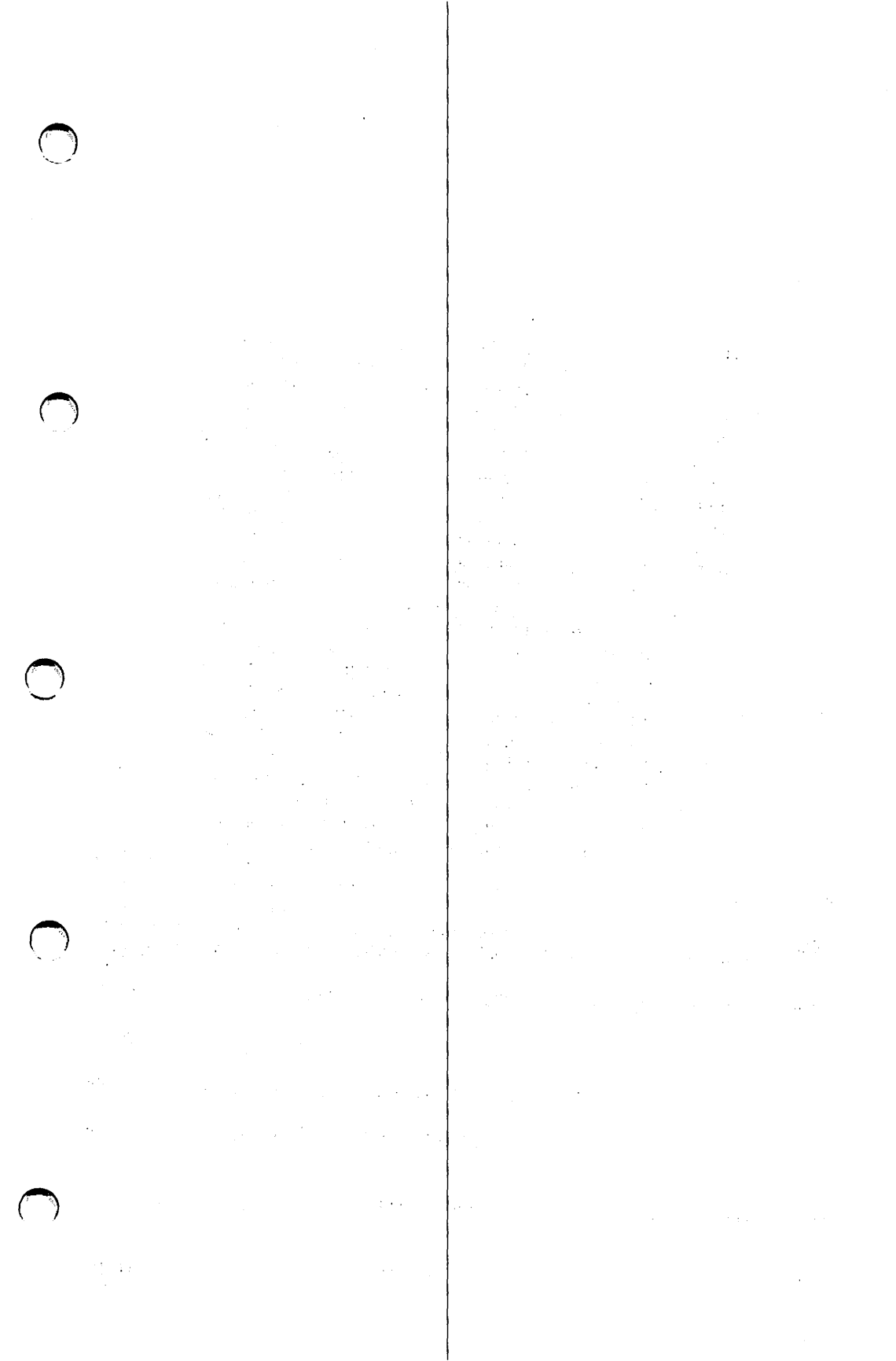
[Filed 10/7/94, Notice 8/3/94—published 10/26/94, effective 11/30/94]

[Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]

[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

[Filed 2/15/00, Notice 12/15/99—published 3/8/00, effective 4/12/00]

[Filed 11/9/00, Notice 9/20/00—published 11/29/00, effective 1/3/01]



**645—302.7(147) Noncompliance.** Failure of the licensee to comply with these rules may result in the suspension or revocation of the licensee's license.

These rules are intended to implement Iowa Code section 147.152(4).

[Filed 7/19/79, Notice 6/13/79—published 8/8/79, effective 9/12/79]

[Filed 8/28/81, Notice 3/4/81—published 9/16/81, effective 10/21/81]

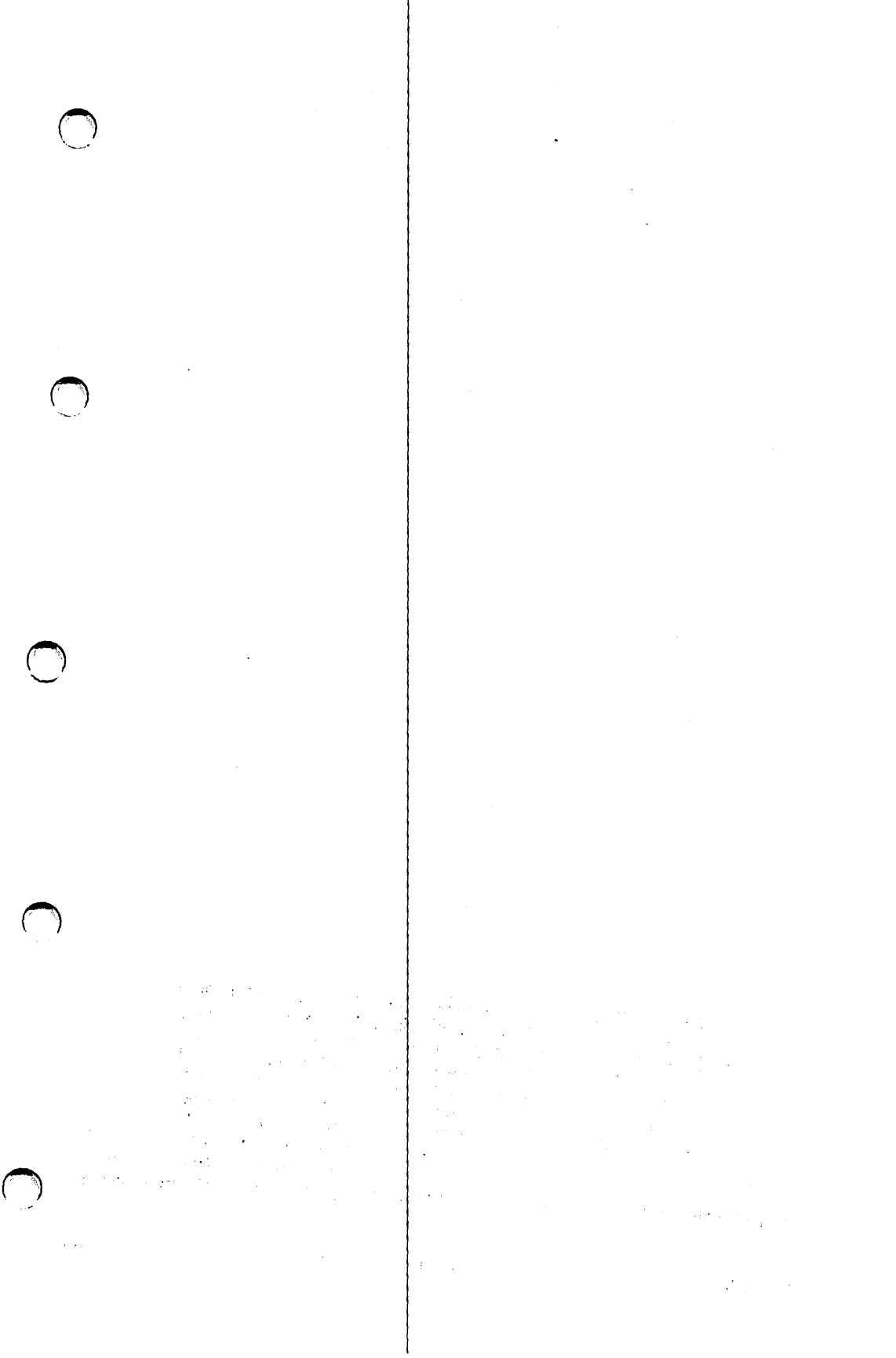
[Filed 6/18/86, Notice 2/12/86—published 7/16/86, effective 8/20/86]

[Filed 7/29/88, Notice 3/23/88—published 8/24/88, effective 9/28/88]

[Filed 1/12/89, Notice 9/7/88—published 2/8/89, effective 3/15/89]

[Filed 5/24/90, Notice 3/21/90—published 6/13/90, effective 7/18/90]

[Filed 1/24/97, Notice 10/23/96—published 2/12/97, effective 3/19/97]



CHAPTER 303  
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS  
AND AUDIOLOGISTS

**645—303.1(147) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Active license”* means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

*“Administrator”* means the administrator of the board of speech pathology and audiology examiners.

*“Approved program/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.

*“Approved sponsor”* means a person or an organization sponsoring continuing education activities that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person may be deemed automatically approved.

*“Audit”* means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

*“Board”* means the board of speech pathology and audiology examiners.

*“Continuing education”* means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

*“Hour of continuing education”* means a clock hour spent by a licensee in actual attendance at and completion of approved continuing education activity.

*“Inactive license”* means the license of a person who is not engaged in practice in the state of Iowa.

*“Lapsed license”* means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

*“License”* means license to practice.

*“Licensee”* means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

**645—303.2(147) Continuing education requirements.**

**303.2(1)** The biennial continuing education compliance period shall extend for a two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, each person who is licensed to practice as a speech pathology or audiology licensee in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession.

**303.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

**303.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board or otherwise meet the requirements herein and be approved by the board pursuant to statutory provisions and the rules that implement them.

**303.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for second renewal.

**303.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—303.3(147) Standards for approval.**

**303.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours (One contact hour equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor.

**303.3(2) Specific criteria.**

a. Subject matters that integrally relate to the practice of speech pathology or audiology or both that will be considered for approval are:

(1) Basic communication processes. Information (beyond the basic licensure requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in the basic communication processes. Any computer course used for continuing education must involve the actual application to the communicatively impaired population.

(2) Professional areas. Information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board shall accept dysphagia courses provided by qualified instructors.

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions which apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; and other areas such as general principles of program management, professional ethics, clinical supervision, counseling and interviewing.

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. While desirable, these subjects are not applicable to the licensees' skill, knowledge and competence as expressed in Iowa Code section 272C.2, paragraph "g." Such courses will receive no credit toward the minimum 30 hours required for license renewal.

b. Poster sessions may be approved as independent study pursuant to the rules that govern independent study in these rules.

c. All activities of an approved sponsor which are relevant to speech pathology and audiology shall be deemed automatically approved for continuing education credit.

d. A licensee may elect to take the National Teacher Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee shall have the results of the examination sent to the board by the agency administering the examination.

e. Independent study. The independent study plan must be submitted and approved before the licensee begins the study. The projected date of completion must be recorded on the board-provided application form. An independent study report must be filed within 30 days after the projected date of completion. One 30-day extension may be granted upon the condition that such a request in writing is received within 30 days of the projected date of completion. A reminder will not be sent by the board.

(1) The maximum number of hours for independent study is 16 hours.

(2) Criteria for presentations are as follows:

1. A maximum of 10 hours of the maximum 16 hours of independent study credit will be given for presenting professional programs that meet the criteria as listed in standards for approval.

2. Two hours of credit will be awarded for each hour of new presentation material.

3. A course schedule or brochure must be maintained for audit, and an independent study plan must be submitted and approved prior to the presentation.

4. An independent study report shall be filed within 30 days after the completion of the presentation.

f. A combined total of six hours per biennium may be used for the following activities:

(1) Government regulations;

(2) CPR, child abuse and dependent adult abuse; and

(3) A maximum of two hours may be used for business-related topics.

#### **645—303.4(147) Approval of sponsors, programs, and activities for continuing education.**

**303.4(1) Approval of sponsors.** An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

a. The form shall include the following:

(1) Date, location, course title(s) offered and outline of content;

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumés or vitae; and

(4) Evaluation form(s).

b. Records shall be retained by the sponsor for four years.

c. Attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance or verification to the licensee providing the following information:

(1) Course date(s);

(2) Course title and presenter;

(3) Location;

(4) Number of clock hours attended and continuing education hours earned;

(5) Name of sponsor and sponsor number;

(6) Licensee's name; and

(7) Method of presentation.

d. All approved sponsors shall maintain a copy of the following for a minimum of four years from the date of the continuing education activity:

- (1) The continuing education activity;
- (2) List of enrolled licensees' names and license numbers; and
- (3) Number of continuing education clock hours awarded.

e. The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include:

- (1) Date(s), location, course title(s) offered and outline of content;
- (2) Total hours of instruction to be presented;
- (3) Names and qualifications of instructors including résumés or vitae;
- (4) Evaluation form(s); and
- (5) A summary of the evaluations completed by the licensees.

**303.4(2) Prior approval of programs/activities.** An organization or person other than an approved sponsor that desires prior approval of a course, program or other educational activity or that desires to establish accreditation of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

- a. The date(s);
- b. Course(s) offered;
- c. Course outline;
- d. Total hours of instruction; and
- e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

**303.4(3) Review of programs.** Continuing education programs/activities shall be reported every year at the designated time as assigned by the board. The board may at any time reevaluate an approved sponsor. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

**303.4(4) Postapproval of activities.** A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

- a. The date(s);
- b. Course(s) offered;
- c. Course outline;
- d. Total hours of instruction and credit hours requested;
- e. Names and qualifications of speakers and other pertinent information;
- f. Request for credit which includes a brief summary of the activity; and
- g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

**303.4(5) Voluntary relinquishment.** The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.



**645—303.5(147) Reporting continuing education by licensee.** At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

**303.5(1)** The information on the form shall include:

- a. Title of continuing education activity;
- b. Date(s);
- c. Sponsor of the activity;
- d. Board-approved sponsor number;
- e. Number of continuing education hours earned; and
- f. Teaching method used; or
- g. The date on which and location where the licensee successfully completed the National Teacher Examination in speech pathology and audiology.

**303.5(2)** Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

- a. The board will select licensees to be audited.
- b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:
  - (1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;
  - (2) Number of contact hours for program attended; and
  - (3) Indication of the successful completion of the course.
- c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.
- d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.
- e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of continuing education report.
- f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

**645—303.6(147) Reinstatement of lapsed license.** Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows a license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the following fees to a maximum of \$350:
  - Renewal fees then due;
  - Late fees which have been assessed by the board for failure to renew; and
  - Reinstatement fees which have been assessed by the board for failure to renew; and
3. Provides evidence of satisfactory completion of Iowa continuing education requirements computed by multiplying 30 times the number of years since the license had lapsed to a maximum of 90 hours.

**645—303.7(147,272C) Continuing education waiver for active practitioners.** A person licensed to practice speech pathology or audiology or both shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing speech pathologist or audiologist.

**645—303.8(147,272C) Continuing education exemption for inactive practitioners.** A licensee who is not engaged in practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

**645—303.9(147,272C) Continuing education waiver for disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum educational requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived, by such methods as may be prescribed by the board.

**645—303.10(147,272C) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of speech pathology or audiology or both in the state of Iowa, satisfy the following requirements for reinstatement.

**303.10(1)** Submit written application for reinstatement to the board upon forms provided by the board accompanied by current license fee; and

**303.10(2)** Furnish in the application evidence of one of the following:

a. Full-time practice in another state of the United States or the District of Columbia and completion of continuing education for each biennium of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of a total number of hours of approved continuing education computed by multiplying 30 times the number of bienniums a certificate of exemption shall be in effect for such applicant not to exceed 90 hours; or

c. Successful completion of the National Teacher Examination in speech pathology or audiology successfully completed within one year immediately prior to the submission of such application for reinstatement.

d. Payment of the current biennial license renewal fee and reinstatement fee.

**645—303.11(272C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 147.

[Filed 11/9/00, Notice 9/20/00—published 11/29/00, effective 1/3/01]

**CHAPTER 304**  
**PETITIONS FOR RULE MAKING**  
Rescinded IAB 6/30/99, effective 8/4/99

**CHAPTER 305**  
**DECLARATORY RULINGS**  
Rescinded IAB 6/30/99, effective 8/4/99

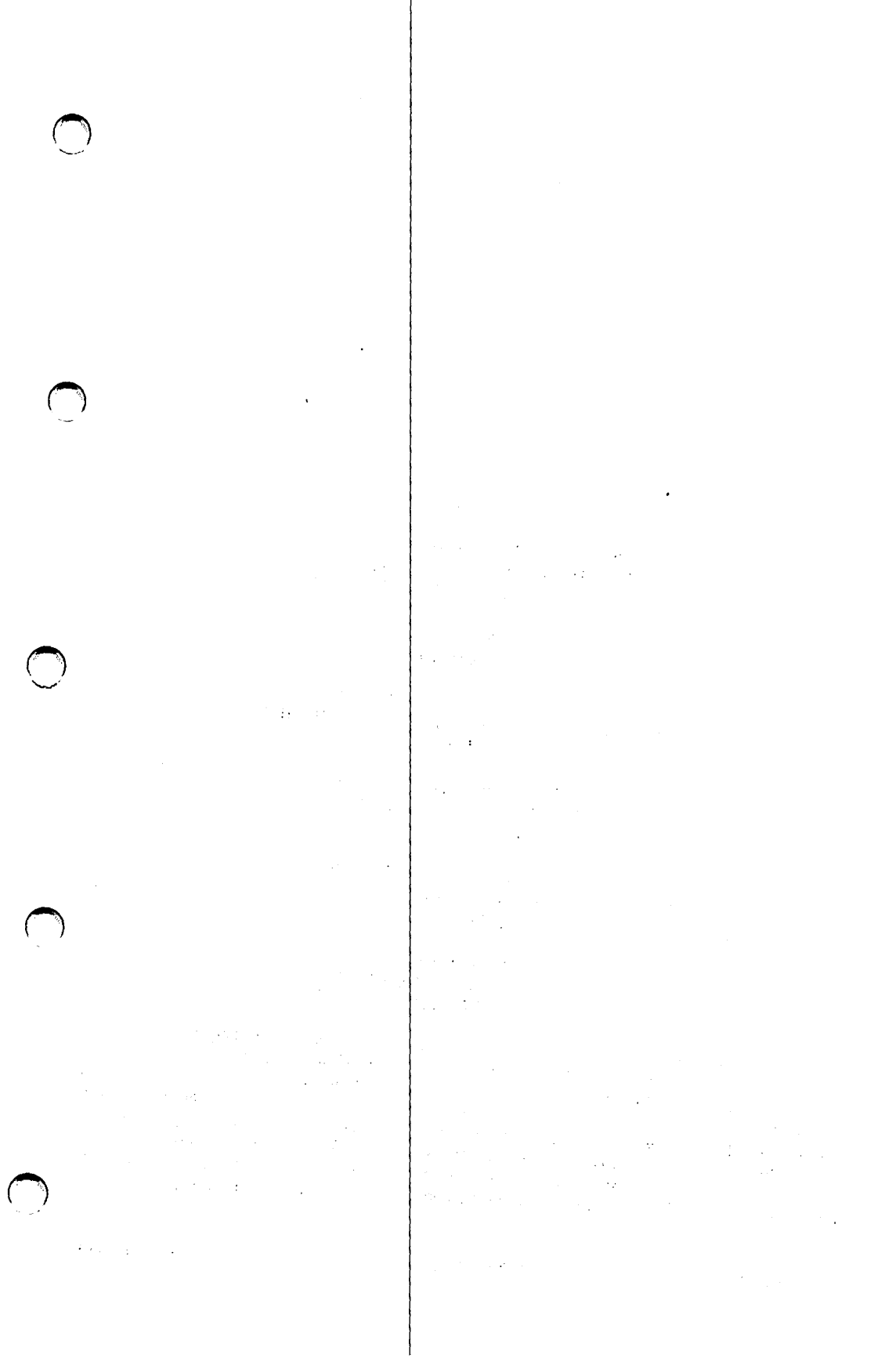
**CHAPTER 306**  
**CHILD SUPPORT NONCOMPLIANCE**  
Rescinded IAB 6/30/99, effective 8/4/99

**CHAPTER 307**  
**IMPAIRED PRACTITIONER REVIEW COMMITTEE**  
Rescinded IAB 6/30/99, effective 8/4/99

**CHAPTER 308**  
Reserved

**CHAPTER 309**  
**PUBLIC RECORDS AND FAIR INFORMATION PRACTICES**  
Rescinded IAB 6/30/99, effective 8/4/99

**CHAPTERS 310 to 324**  
Reserved



## MEDICAL EXAMINERS BOARD[653]

[Prior to 5/4/88, see Health Department[470], Chs 135 and 136, renamed Medical Examiners Board[653] under the "umbrella" of Public Health Department[641] by 1986 Iowa Acts, ch 1245]

### CHAPTER 1 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES (Uniform Rules)

- 1.1(17A,22) Definitions
- 1.3(17A,22) Requests for access to records
- 1.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
- 1.7(17A,22) Consent to disclosure by the subject of a confidential record
- 1.9(17A,22) Disclosures without the consent of the subject
- 1.10(17A,22) Routine use
- 1.11(17A,22) Consensual disclosure of confidential records
- 1.12(17A,22) Release to subject
- 1.13(17A,22) Availability of records
- 1.14(17A,22) Personally identifiable information
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- 2.1(272C) Impaired physician review committee
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- 2.3(272C) Purpose
- 2.4(272C) Composition of the committee
- 2.5(272C) Eligibility
- 2.6(272C) Type of program
- 2.7(272C) Terms of participation
- 2.8(272C) Limitations
- 2.9(272C) Confidentiality

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- 10.5(17A) Office hours

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- 10.10(17A) Declaratory orders
- 10.11(68B) Selling of goods or services by members of the board or impaired physician review committee (IPRC)

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#### LICENSURE REQUIREMENTS

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- 11.2(147,148,150,150A) General provisions for applicants for permanent licensure
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- 11.9(147,148,150,150A) Application for licensure
- 11.10(272C) Definitions—continuing education
- 11.11(272C) Continuing education requirements
- 11.12(272C) Standards for approval
- 11.13(272C) Accreditation of sponsors
- 11.14(272C) Hearings
- 11.15(272C) Reports and records
- 11.16(272C) Attendance record
- 11.17(272C) Exemptions for inactive practitioners
- 11.18(272C) Reinstatement of inactive practitioners
- 11.19(272C) Exemptions for active practitioners
- 11.20(272C) Physical disability or illness
- 11.21(272C) Noncompliance
- 11.22(147) Licenses
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- 11.30(147) License renewal
- 11.31(147) Fees
- 11.32(147) Reinstatement of lapsed license
- 11.33(17A) Forms
- 11.34(147,148,150)

Licensee denied—appeal procedure

- 11.35(147,148,150) Licensee denied—hearing

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- 12.2(272C) Mandatory reporting—wrongful acts or omissions
- 12.3(272C) Failure to report
- 12.4(272C) Additional grounds for discipline

#### COMPLAINTS

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- 12.28(17A) Default
- 12.29(17A) Ex parte communication
- 12.30(17A) Recording costs
- 12.31(17A) Interlocutory appeals
- 12.32(17A) Decisions
- 12.33(272C) Disciplinary sanctions
- 12.34(17A) Applications for rehearing
- 12.35(17A) Stays of agency actions
- 12.36(17A) No factual dispute contested cases
- 12.37(17A) Emergency adjudicative proceedings
- 12.38(17A) Judicial review and appeal
- 12.39(17A) Publication of decisions
- 12.40(17A) Reinstatement
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  - 13.2(148,150,150A,272C) Standards of practice—prescribing or administering controlled substances for the treatment of patients with chronic, nonmalignant or intractable pain
  - 13.3(147) Supervision of pharmacists who administer adult immunizations
  - 13.4 to 13.9 Reserved
- #### PROFESSIONAL ETHICS
- 13.10(147,148,272C) Principles of medical ethics
  - 13.11(147,148,272C) Code of ethics of osteopathic profession

#### CHAPTER 14 LICENSURE OF ACUPUNCTURISTS

- 14.1(148E) Purpose
- 14.2(148E) Licensure exceptions
- 14.3(148E) Definitions
- 14.4(147,148E) Eligibility for licensure
- 14.5(147,148E) Application requirements

d. *Periodic review.* The physician shall periodically review the course of drug treatment of the patient and the etiology of the pain. Modification or continuation of drug therapy by the physician shall be dependent upon evaluation of the patient's progress toward the objectives established in the treatment plan. The physician shall consider the appropriateness of continuing drug therapy and the use of alternative treatment modalities if periodic reviews indicate the patient's condition is not improving in accordance with the treatment plan.

e. *Consultation/referral.* The physician shall refer the patient for further evaluation and treatment to another physician, if necessary, to meet the treatment plan objectives.

f. *Records.* The physician shall keep accurate, timely, and complete records that detail compliance with this subrule, including physical examination, treatment plan, informed consent, periodic review, consultation, and any other relevant information about the patient's condition and treatment.

g. *Physician-patient agreements.* Physicians treating patients at risk for substance abuse shall consider establishing physician-patient agreements that specify the rules for medication use and the consequences for misuse. In preparing agreements, a physician shall evaluate the case of each patient on its own merits, taking into account the nature of the risks to the patient and the potential benefits of treatment.

**13.2(4) Restrictions and limitations.** No aspect of this rule shall be construed to interfere with:

a. Federal and state laws and regulations governing the proper prescribing and administering of controlled substances;

b. Treatment of patients suffering from chronic malignant pain, such as patients cared for in a hospice or other long-term care facility setting; or

c. Delivery of medical services to a patient as a result of trauma or a medical emergency.

**653—13.3(147) Supervision of pharmacists who administer adult immunizations.** A physician may prescribe adult immunizations via written protocol for influenza and pneumococcal vaccines for administration by an authorized pharmacist if the physician meets these requirements for supervising the pharmacist.

**13.3(1) Definitions.**

a. "*Authorized pharmacist*" means an Iowa-licensed pharmacist who has documented that the pharmacist has successfully completed an educational program meeting the training standards on vaccine administration as provided by an American Council on Pharmaceutical Education (ACPE)-approved provider of continuing pharmaceutical education that:

(1) Requires documentation by the pharmacist of current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers;

(2) Is an evidence-based course that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current Centers for Disease Control and Prevention guidelines, and provides instruction and experiential training in the following content areas:

1. Standards for immunization practices;
2. Basic immunology and vaccine protection;
3. Vaccine-preventable diseases;
4. Recommended immunization schedules;
5. Vaccine storage and management;
6. Informed consent;
7. Physiology and techniques for vaccine administration;
8. Pre- and post-vaccine assessment and counseling;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. “Vaccine” means a specially prepared antigen which, upon administration to a person, will result in immunity and, specifically for the purposes of this rule, shall mean influenza and pneumococcal vaccines.

c. “Written protocol” means a physician’s order for one or more patients that contains, at a minimum, the following:

(1) A statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of administration of adult immunizations for influenza and pneumococcus;

(2) A statement identifying the individual authorized pharmacists;

(3) A statement that forbids an authorized pharmacist from delegating the administration of adult immunizations to anyone other than another authorized pharmacist or a registered nurse;

(4) A statement identifying the vaccines that may be administered by an authorized pharmacist, the dosages, and the route of administration;

(5) A statement identifying the activities an authorized pharmacist shall follow in the course of administering adult immunizations, including:

1. Procedures for determining if a patient is eligible to receive the vaccine;

2. Procedures for determining the appropriate scheduling and frequency of drug administration in accordance with applicable guidelines;

3. Procedures for record keeping and long-term record storage including batch or identification numbers;

4. Procedures to follow in case of life-threatening reactions; and

5. Procedures for the pharmacist and patient to follow in case of reactions following administration;

(6) A statement that describes how the authorized pharmacist shall report the administration of adult immunizations, within 30 days, to the physician issuing the written protocols and to the patient’s primary care physician, if one has been designated by the patient. In case of serious complications, the authorized pharmacist shall notify the physicians within 24 hours and submit a VAERS report to the bureau of immunizations, Iowa department of public health. (VAERS is the Vaccine Advisory Event Reporting System.) A serious complication is one that requires further medical or therapeutic intervention to effectively protect the patient from further risk, morbidity, or mortality.

**13.3(2) Supervision.** A physician who prescribes adult immunizations to an authorized pharmacist for administration shall adequately supervise that pharmacist. Physician supervision shall be considered adequate if the delegating physician:

a. Ensures that the authorized pharmacist is prepared as described in subrule 13.3(1), paragraph “a”;

b. Provides a written protocol that is updated at least annually;

c. Is available through direct telecommunication for consultation, assistance, and direction, or provides physician backup to provide these services when the physician supervisor is not available;

d. Is an Iowa-licensed physician who has a working relationship with an authorized pharmacist within the physician’s local provider service area.

**13.3(3) Administration of other adult immunizations by pharmacists.** A physician may prescribe, for an individual patient by prescription or medication order, other adult immunizations to be administered by an authorized pharmacist.

This rule is intended to implement Iowa Code sections 147.76 and 272C.3.



## PROFESSIONAL ETHICS

**653—13.10(147,148,272C) Principles of medical ethics.** The following principles of medical ethics prepared and approved by the judicial council of the American Medical Association, which are set out in a 1977 publication entitled "Opinions and Reports of the Judicial Council," published by the American Medical Association, 535 North Dearborn Street, Chicago, Illinois 61610, are hereby adopted by the board relative to the practice of medicine and surgery in this state:

**13.10(1)** These principles are intended to aid physicians individually and collectively in maintaining a high level of ethical conduct. They are not laws but standards by which a physician may determine the propriety of conduct in relationship with patients, with colleagues, with members of allied professions, and with the public.

**13.10(2)** The principal objective of the medical profession is to render service to humanity with full respect for dignity. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

**13.10(3)** Physicians should strive continually to improve medical knowledge and skill and should make available to their patients and colleagues the benefits of their professional attainments.

**13.10(4)** A physician should practice a method of healing founded on a scientific basis; and the physician should not voluntarily associate professionally with anyone who violates this principle.

**13.10(5)** The medical profession should safeguard the public and itself against physicians deficient in moral character or professional competence. Physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

**13.10(6)** A physician may choose whom they will serve. In an emergency, however, the physician should render service to the best of their ability. Having undertaken the case of a patient, the physician may not neglect the patient; and unless the patient has been discharged they may discontinue their services only after giving adequate notice. The physician should not solicit patients.

**13.10(7)** A physician should not dispose of their services under terms or conditions which tend to interfere with or impair the free and complete exercise of their medical judgment and skill or tend to cause a deterioration of the quality of medical care.

**13.10(8)** In the practice of medicine a physician should limit the source of their professional income to medical services actually rendered by them, or under their supervision to their patients. The physician's fee should be commensurate with the services rendered and the patient's ability to pay. The physician should neither pay nor receive a commission for referral of patients. Drugs, remedies or appliances may be dispensed or supplied by the physician provided it is in the best interest of the patient.

**13.10(9)** A physician should seek consultation upon request; in doubtful or difficult cases; or whenever it appears that the quality of medical service may be enhanced thereby.

**13.10(10)** A physician may not reveal the confidences entrusted to them in the course of medical attendance, or the deficiencies they may observe in the character of patients, unless they are required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

**13.10(11)** The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to society where these responsibilities deserve the physician's interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

**653—13.11(147,148,272C) Code of ethics of osteopathic profession.** The following code of ethics published and approved by the American Osteopathic Association and published in a book entitled “1977 American Osteopathic Association Year Book and Director of Osteopathic Physicians,” is hereby adopted by the board relative to the practice of osteopathic medicine and surgery or osteopathy in this state:

**13.11(1)** The physician shall keep in confidence whatever they may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient.

**13.11(2)** The physician shall give a candid account of the patient’s condition to the patient or to those responsible for the patient’s care.

**13.11(3)** A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose their physician. The physician must have complete freedom to choose patients whom they will serve. In emergencies, a physician should make their services available.

**13.11(4)** The physician shall give due notice to the patient or to those responsible for the patient’s care when the physician withdraws from a case so that another physician may be summoned.

**13.11(5)** A physician is never justified in abandoning a patient.

**13.11(6)** A physician shall practice in accordance with the body of systematized knowledge related to the healing arts and shall avoid professional association with individuals or organizations which do not practice or conduct organization affairs in accordance with such knowledge.

**13.11(7)** A physician shall not be identified in any manner with testimonials for proprietary products or devices advertised or sold directly to the public.

**13.11(8)** A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless the physician is actually licensed on the basis of that degree in the state in which he practices.

**13.11(9)** A physician shall obtain consultation whenever requested to do so by the patient. A physician should not hesitate to seek consultation whenever the physician believes it advisable.

**13.11(10)** Illegal, unethical or incompetent conduct of physicians shall be revealed to the proper tribunals.

**13.11(11)** A physician shall not assume treatment of a patient under the care of another physician except in emergencies and only during the time that the attending physician is not available unless requested by the patient.

**13.11(12)** Any fee charged by a physician shall be reasonable.

**13.11(13)** A physician shall not pay or receive compensation for referral of patients.

**13.11(14)** The physician shall cooperate fully in complying with all laws and regulations pertaining to practice of the healing arts and protection of the public health.

Rules 13.10(147,148,272C) and 13.11(147,148,272C) are intended to implement Iowa Code sections 147.55 and 147.76.

[Filed 2/5/79, Notice 11/29/78—published 2/21/79, effective 3/29/79]

[Filed 3/13/81, Notice 1/7/81—published 4/1/81, effective 5/6/81]

[Filed emergency 4/15/88—published 5/4/88, effective 4/15/88]

[Filed 5/11/90, Notice 3/7/90—published 5/30/90, effective 6/6/90]

[Filed 3/22/96, Notice 9/27/95—published 4/10/96, effective 6/15/96\*]

[Filed 11/22/96, Notice 8/28/96—published 12/18/96, effective 1/22/97]

[Filed 5/2/97, Notice 3/26/97—published 5/21/97, effective 6/25/97]

[Filed 11/7/00, Notice 4/19/00—published 11/29/00, effective 1/3/01]

**CHAPTER 14**  
**FAIR INFORMATION PRACTICES**

(Uniform Rules)

- 14.1(17A,22)Definitions
- 14.3(17A,22)Requests for access to records
- 14.6(17A,22)Procedure by which additions, dissents, or objections may be entered into certain records
- 14.7(17A,22)Consent to disclosure by the subject of a confidential record
- 14.8(17A,22)Notice to suppliers of information

**CHAPTER 15**  
**WAIVER AND VARIANCE RULES**

- 15.1(147,ExecOrd8,78GA,ch1176)  
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- 15.6(147,ExecOrd8,78GA,ch1176)  
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Additional information
- 15.8(147,ExecOrd8,78GA,ch1176)  
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- 15.9(147,ExecOrd8,78GA,ch1176)  
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Public availability
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Summary reports
- 15.13(147,ExecOrd8,78GA,ch1176)  
Cancellation of a waiver
- 15.14(147,ExecOrd8,78GA,ch1176)  
Violations
- 15.15(147,ExecOrd8,78GA,ch1176)  
Defense
- 15.16(147,ExecOrd8,78GA,ch1176)  
Judicial review

**CHAPTER 16**  
**NURSE LICENSURE COMPACT**

- 16.1(152) Definitions
- 16.2(152) Issuance of a license by a compact party state
- 16.3(152) Limitations on multistate licensure privilege
- 16.4(152) Information system



The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the smooth operation of any business and for the protection of its interests.

In the second part, the author outlines the various methods used to collect and analyze data. This includes the use of surveys, interviews, and focus groups to gather information from a wide range of sources. The data is then analyzed to identify trends and patterns that can be used to inform decision-making.

The third part of the document focuses on the implementation of the findings. It describes the steps that were taken to put the research into practice, including the development of new policies and procedures. The author also discusses the challenges that were encountered and how they were overcome.

Finally, the document concludes with a summary of the key findings and a list of recommendations. The author believes that the findings have significant implications for the industry and that the recommendations should be adopted by all organizations.

The following table shows the results of the data analysis. It is divided into two columns: 'Category' and 'Percentage'. The data shows that the majority of respondents (65%) are in the 18-25 age group, while only 10% are in the 65+ age group.

Category	Percentage
18-25	65%
26-35	20%
36-45	10%
46-55	5%
56-65	3%
65+	1%

- (3) Inactivation.
- (4) Renewal.
- (5) Late renewal.
- (6) Continuing education requirements.

**655—3.7(17A,147,152,272C) License cycle.**

**3.7(1) Name and address changes.** Written notification to the board office of name or address changes is mandatory as defined in Iowa Code section 147.9. All board correspondence is mailed to the licensee at the last known address on file with the board office. There is no charge for a change of name or address in board records. Reissuance of a license is optional as outlined in subrule 3.7(8).

**3.7(2) New licenses.** Licenses issued by endorsement and examination shall be issued for more than 24 months up to 36 months until the licensee can be placed in the three-year renewal cycle based on birth month. Expiration shall be on the fifteenth day of the birth month.

**3.7(3) Renewal.** At least 60 days prior to expiration of the license, the licensee shall be notified by mail that a renewal application is available at the board's Internet address. Renewal applications are also available by mail upon request.

*a.* The required materials and the renewal fee as specified in rule 3.1(17A,147,152,272C) are to be submitted to the board office 30 days before license expiration.

*b.* When the licensee has satisfactorily completed the requirements for renewal 30 days before expiration of the previous license, a renewal wallet card shall be mailed to the licensee before expiration of the previous license.

*c.* A license to practice as a registered nurse/licensed practical nurse based on renewal shall expire every three years on the fifteenth day of the birth month.

**3.7(4) Late renewal.** When the licensee has not satisfactorily completed the requirements for renewal before the previous license expired and prior to its becoming delinquent, the licensee shall be assessed a late fee, as specified in rule 3.1(17A,147,152,272C).

*a.* A late licensee who wishes to reinstate to a current license shall complete the renewal requirements and submit the late fee prior to the fifteenth day of the month following the expiration date of the license.

*b.* A late licensee who wishes to reinstate to an inactive status shall make the request in writing to the board office and submit the late fee. No continuing education shall be required.

*c.* A late license is considered lapsed until it is reinstated.

**3.7(5) Delinquent status.** When the licensee has not satisfactorily completed the requirements for late renewal within the grace period after expiration of the license, the licensee shall be considered a delinquent licensee.

*a.* A license is considered lapsed until reinstated. Immediately upon reaching a delinquent status, the delinquent licensee shall not practice nursing in Iowa until the license is reinstated to current status.

*b.* If no action is taken by the delinquent licensee to reinstate, the license shall remain delinquent and fees shall accrue annually.

*c.* If a delinquent licensee is found to be working without a current license, disciplinary proceedings may be started.

*d.* A delinquent licensee who wishes to reinstate a current license shall make the request to the board office.

(1) Upon receipt of the request, the board office shall send an application, continuing education report form, and statement of fees to the delinquent licensee.

(2) A delinquent licensee shall have completed 15 contact hours of continuing education as specified in 655—Chapter 5. The continuing education shall have been earned within the 12 months prior to reinstatement.

(3) Fees shall include all renewal fees to date due and a delinquent fee, as specified in rule 3.1(17A,147,152,272C).

(4) Upon receipt of the completed application, required continuing education materials, and appropriate fees, the board shall issue a current license to practice in Iowa. The license shall be issued for more than 24 months up to 36 months until the license can be placed in the three-year renewal cycle based on birth month. Expiration shall be on the fifteenth day of the birth month.

*e.* A delinquent licensee who wishes to reinstate to an inactive status shall make the request to the board office.

(1) Upon receipt of the request, the board office shall send an application and statement of fees to the delinquent licensee.

(2) No continuing education shall be required.

(3) Fees shall include all renewal fees to date due and a delinquent fee, as specified in 3.1(17A,147,152,272C). No current renewal fees shall be charged because a current license shall not be issued.

(4) Upon receipt of the completed application and appropriate fees, the board shall place the license on inactive status.

**3.7(6) *Inactive status.*** Inactive status is a status where the licensee remains inactive indefinitely and is not required to obtain continuing education or pay fees. An inactive licensee shall not practice nursing in Iowa.

*a.* A licensee may request inactive status by one of the following methods:

(1) The current license may be returned to the board office prior to the expiration of the license with a written request for inactive status. Inactive status becomes effective immediately upon the board's receipt of the license.

(2) Prior to the expiration of the current license, the licensee may submit the renewal form marked "requesting inactive status." Inactive status becomes effective when the current license expires.

(3) If the license is late, the license may be placed on inactive as described in subrule 3.7(4), paragraph "*b.*"

(4) If the license is delinquent, the license may be placed on inactive as described in subrule 3.7(5), paragraph "*e.*"

*b.* An inactive licensee who wishes to reactivate to a current license shall make the request to the board office.

(1) Upon receipt of the request, the board office shall send an application and continuing education report form.

(2) An inactive licensee shall have completed 15 contact hours of continuing education as specified in 655—Chapter 5. The continuing education shall have been earned within the 12 months prior to reactivation.

(3) The reactivation fee is specified in rule 3.1(17A,147,152,272C).

(4) Upon receipt of the completed application, required continuing education materials, and fee, the board shall issue a current license to practice in Iowa. The license shall be issued for more than 24 months up to 36 months until the license can be placed in the three-year renewal cycle based on birth month. Expiration shall be on the fifteenth day of the birth month.

**3.7(7) Duplicate license or certificate.** The board shall issue a duplicate of a current license or original certificate upon written request of the licensee and payment of the fee specified in rule 3.1(17A,147,152,272C). If the current license is destroyed, lost, or stolen, a duplicate license is required as replacement.

**3.7(8) Reissue of a license.** If there is an error on the license or certificate made by the board of-  
fice, no fee shall be charged for a reissued corrected license or certificate. A license may be reissued if a licensee desires to have a current name or address printed on the current license prior to renewal. Reissuance is optional; however, written notification to the board office of name or address change is mandatory as outlined in subrule 3.7(1). The board shall reissue a license per written request of the licensee and payment of the fee as specified in rule 3.1(17A,147,152,272C) or at the direction of the executive director.

**655—3.8(17A,147,152,272C) Verification.** Upon written request from the licensee or other state and payment of the verification fee as specified in rule 3.1(17A,147,152,272C), the board shall provide a certified statement to another state that a registered nurse/licensed practical nurse is licensed, inactive, or lapsed in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 152, and 272C and Iowa Code sections 147.2, 147.10, 147.11, 147.36, 147.76, 147.80, 147.100, 152.1, 152.5, 152.9, and 152.10 and 2000 Iowa Acts, House File 2105.

[Filed 5/12/70]

[Filed 5/12/70; amended 8/11/70]◇

[Filed 2/20/76, Notice 12/29/75—published 3/8/76, effective 4/12/76]◇

[Filed 5/3/76, Notices 1/12/76, 3/22/76—published 5/17/76, effective 6/21/76]◇

[Filed 5/24/76, Notice 4/19/76—published 6/14/76, effective 7/19/76]◇

[Filed 12/3/76, Notice 8/9/76—published 12/29/76, effective 2/2/77]◇

[Filed 3/9/77, Notice 12/29/76—published 4/6/77, effective 5/11/77]◇

[Filed 3/18/77, Notice 8/9/76—published 4/6/77, effective 5/11/77]

[Filed 6/24/77, Notices 12/15/76, 4/20/77—published 7/13/77, effective 8/17/77]◇

[Filed 10/3/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]

[Filed emergency 1/23/78—published 2/8/78, effective 1/23/78]

[Filed 4/21/78, Notice 2/22/78—published 5/17/78, effective 6/21/78]

[Filed 4/21/78, Notice 3/8/78—published 5/1/78, effective 6/21/78]◇

[Filed 7/17/80, Notice 5/14/80—published 8/6/80, effective 9/10/80]◇

- [Filed emergency after Notice 6/21/82, Notice 5/12/82—published 7/7/82, effective 6/21/82]
- [Filed emergency after Notice 2/10/83, Notice 1/5/83—published 3/2/83, effective 2/10/83]
  - [Filed 5/2/84, Notice 2/29/84—published 5/23/84, effective 6/27/84]
  - [Filed 10/17/84, Notice 8/29/84—published 11/7/84, effective 12/12/84]
  - [Filed without Notice 7/19/85—published 8/14/85, effective 9/18/85]
  - [Filed 7/19/85, Notice 5/22/85—published 8/14/85, effective 9/18/85]
  - [Filed 9/20/85, Notice 8/14/85—published 10/9/85, effective 11/13/85]
- [Filed emergency after Notice 4/15/86, Notice 2/26/86—published 5/7/86, effective 4/18/86]
  - [Filed 9/22/86, Notice 8/13/86—published 10/8/86, effective 11/12/86]
  - [Filed 4/30/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]
  - [Filed emergency 7/29/87—published 8/26/87, effective 7/29/87]
  - [Filed 10/2/87, Notice 7/15/87—published 10/21/87, effective 11/25/87]
  - [Filed 2/17/88, Notice 12/16/87—published 3/9/88, effective 4/13/88]
  - [Filed 3/10/88, Notice 9/9/87—published 4/6/88, effective 7/1/88]
- [Filed emergency 4/15/88 after Notice 2/24/88—published 5/4/88, effective 4/15/88]
  - [Filed 8/4/88, Notice 4/20/88—published 8/24/88, effective 9/28/88]
  - [Filed 8/4/88, Notice 6/15/88—published 8/24/88, effective 9/28/88]
  - [Filed 9/12/88, Notice 6/29/88—published 10/5/88, effective 11/9/88]\*
  - [Filed 10/6/88, Notice 8/24/88—published 11/2/88, effective 12/7/88]
  - [Filed 5/26/89, Notice 2/22/89—published 6/14/89, effective 7/19/89]
  - [Filed 3/15/90, Notice 1/10/90—published 4/4/90, effective 5/9/90]
  - [Filed 12/20/91, Notice 10/16/91—published 1/8/92, effective 2/12/92]
- [Filed emergency 2/10/93 after Notice 1/6/93—published 3/3/93, effective 2/10/93]
  - [Filed 12/8/93, Notice 10/13/93—published 1/5/94, effective 2/9/94]
  - [Filed 6/16/94, Notice 4/13/94—published 7/6/94, effective 8/10/94]
  - [Filed 9/30/94, Notice 7/6/94—published 10/26/94, effective 11/30/94]
  - [Filed 6/15/95, Notice 4/12/95—published 7/5/95, effective 8/9/95]
  - [Filed 10/5/95, Notice 7/5/95—published 10/25/95, effective 11/29/95]
  - [Filed 12/14/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]
  - [Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]
  - [Filed 8/17/99, Notice 6/30/99—published 9/8/99, effective 10/13/99]
  - [Filed 9/28/99, Notice 8/25/99—published 10/20/99, effective 11/24/99]
  - [Filed 12/10/99, Notice 10/20/99—published 12/29/99, effective 2/2/00]
  - [Filed emergency 6/9/00—published 6/28/00, effective 6/30/00]
  - [Filed 9/15/00, Notice 6/28/00—published 10/4/00, effective 11/8/00]
  - [Filed emergency 11/9/00—published 11/29/00, effective 11/9/00]

◇History relating also to "Licensure to Practice—Licensed Practical Nurse," Ch 4 prior to IAC 5/23/84.

\*Effective date of 11/9/88 delayed 70 days by the Administrative Rules Review Committee at its October meeting.  
Delay lifted by ARRC 11/16/88.



e. A licensee shall be deemed to have complied with the continuing education requirements when that person at the time of renewal possesses evidence of certification in a specialty area of nursing practice for the advanced registered nurse practitioner as defined in rule 655—7.1(152). The continuing education credit requirements shall be waived; however, a licensee who claims this exception shall retain evidence of current certification by the national organization to be submitted upon request.

f. A licensee who has had a physical or mental disability or illness during the license period shall be eligible for a waiver. A waiver provides for an extension of time or exemption from some or all of the continuing education requirements. An application for a waiver is available upon request to the board office. The application requires the signature of a physician who can attest to the existence of a disability or illness during the license period. The application for a waiver shall be approved or denied depending on the disability or illness of the licensee. A licensee shall be notified of the decision. A licensee who obtains approval shall retain a copy of the waiver to be presented to the board upon request.

**5.2(4) Failure to meet requirements or exceptions to requirements.** The licensee who fails to meet the requirements or the conditions for the exceptions has the following options:

a. If prior to the expiration date of the license, the license may be placed on inactive status without penalty and no continuing education is required. The licensee shall notify the board in writing of the desire to place the license on inactive status.

b. If during the late renewal period, the late licensee as defined in nursing board rule 655—3.1(17A,147,152,272C) may retain the license in an active status, or place it on inactive status.

(1) To remain active, the licensee shall complete the continuing education requirements as specified in subrule 5.2(2) or 5.2(3) as well as other requirements specified in nursing board 655—subrule 3.7(4). The licensee shall be required to submit to an audit of continuing education following the late renewal as well as at the time of the next license renewal.

(2) To place the license on inactive status, the licensee shall make a written request to be placed on inactive status and submit the late fee as specified in nursing board rule 655—3.1(17A,147,152,272C). No continuing education is required in order to place the license on inactive status.

c. If the license is in delinquent status, the delinquent licensee as defined in nursing board rule 655—3.1(17A,147,152,272C) may reinstate the license or place the license on inactive status.

(1) To reinstate a license, the licensee shall complete 15 contact hours of continuing education as well as other requirements specified in nursing board 655—subrule 3.7(5). The continuing education shall have been earned within 12 months prior to reinstatement.

(2) To place a license on inactive status, the licensee shall make a written request to be placed on inactive status and submit the delinquent fees as specified in nursing board rule 655—3.1(17A,147,152,272C) plus all renewal fees to date due. No continuing education is required in order to place the license on inactive status.

**5.2(5) Audit of licensees.** The board may select licensees for audit following a period of licensure.

a. The licensee must submit verification of compliance with continuing education requirements or exceptions for the period of licensure being audited. Verification for satisfactory completion of the audit includes legible copies of certificates of attendance, transcripts, special approval of informal offerings from nonapproved providers, or documentation of compliance with exceptions in subrule 5.2(3).

- b. Verification must be submitted within one month after the date of the audit. Extension of time may be granted on an individual basis.
- c. Licensees are required to keep certificates of attendance, letters verifying special approval for informal offerings from nonapproved providers, transcripts, and documentation of compliance with exceptions for four years.
- d. The board shall notify the licensee of satisfactory completion of the audit.
- e. Failure to complete the audit satisfactorily or falsification of information shall result in board action as described in nursing board rules, 655—Chapter 4.
- f. Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement; completion of an audit will be required prior to further license renewal.

**655—5.3(152) Continuing education — providers.**

**5.3(1) Board authority.** The board derives its authority under Iowa Code chapter 272C to create requirements for becoming an approved provider and maintaining that status. The board also has the authority to develop an audit, a mechanism to verify compliance with criteria for approved providers.

**5.3(2) Criteria for approved providers.** The approved providers shall show evidence of capability to adhere to criteria indicative of quality continuing education activities for nurses.

a. Criteria related to appropriate subject matter. Appropriate subject matter for continuing education credits reflects the educational needs of the nurse learner and the health needs of the consumer. Subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

- (1) Nursing practice related to health care of patients/clients/families in any setting.
  - (2) Professional growth and development related to nursing practice roles.
  - (3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.
  - (4) Social, economic, ethical and legal aspects of health care.
  - (5) Management or administration of health care, health care personnel, or health care facilities.
  - (6) Education of patients or their significant others, students, or personnel in the health care field.
- b. Criteria related to operation of an approved continuing education providership. The provider shall:

- (1) Have a consistent, identifiable authority who has overall responsibility for the operation of the providership and execution of the informal offerings who is knowledgeable in administration and has the capability to organize, execute, and evaluate the overall operations of the providership.
- (2) Have an organizational chart to delineate lines of authority and communication within the providership as well as within the parent organization, if applicable, and other cooperative or advisory committees.
- (3) Develop and implement a philosophy, goals and objectives consistent with the controlling institution, if applicable, which reflect the provider beliefs about nursing, education, and continuing education. These shall indicate the overall direction of the providership for a five-year period.

f. A provider who wishes to appeal the sanction imposed by the board may do so pursuant to Iowa Code section 17A.19.

g. A provider whose approved provider status has been revoked shall no longer advertise that it is an approved provider. The provider number shall no longer be used or appear in brochures, advertisements, certificates, or other materials.

h. A provider whose approved provider status has been revoked shall maintain the records required in subrule 5.3(2) until four years after the last credit was granted or transfer the records to the custody of the board.

i. The board shall notify other states which have mandatory nursing continuing education of the revocation of the approved provider status and the reason(s) for withdrawal.

j. A provider whose approved provider status has been revoked may apply no sooner than one year after the withdrawal of approval to become an approved provider by the initial approval process described in subrule 5.3(3).

**5.3(6) *Voluntary relinquishment of an approved providership.*** An approved provider may voluntarily relinquish its provider number. If an approved provider does not submit the required materials for reapproval or is unable to be located by the board, by certified mail, the board will consider that the provider voluntarily relinquished its approved provider status effective with the return of the certified mail or as determined by the executive director. When the approved providership has been voluntarily relinquished, the provider shall discontinue providing continuing education that is acceptable for license renewal in Iowa.

a. The provider shall maintain the records required in subrule 5.3(2) until four years after the last credit was granted or transfer the records to the custody of the board.

b. The provider may apply no sooner than one year after the relinquishment to become an approved provider by starting the initial approval process specified in subrule 5.3(3).

c. The board shall notify other states which have mandatory nursing continuing education of the relinquishment of the approved provider status and the reason(s) for relinquishment.

These rules are intended to implement Iowa Code sections 272C.2 and 272C.3.

[Filed 3/28/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed 12/11/78, Notice 10/18/78—published 12/27/78, effective 1/31/79]

[Filed 2/22/85, Notice 1/2/85—published 3/13/85, effective 6/1/85]

[Filed without Notice 3/28/85—published 4/24/85, effective 6/1/85]

[Filed 1/21/86, Notice 10/23/85—published 2/12/86, effective 3/19/86]

[Filed 4/15/86, Notice 2/26/86—published 5/7/86, effective 6/11/86]

[Filed 7/23/86, Notice 5/21/86—published 8/13/86, effective 9/17/86]

[Filed emergency 7/29/87—published 8/26/87, effective 7/29/87]

[Filed 8/4/88, Notice 6/15/88—published 8/24/88, effective 9/28/88]

[Filed 5/26/89, Notice 2/22/89—published 6/14/89, effective 7/19/89]

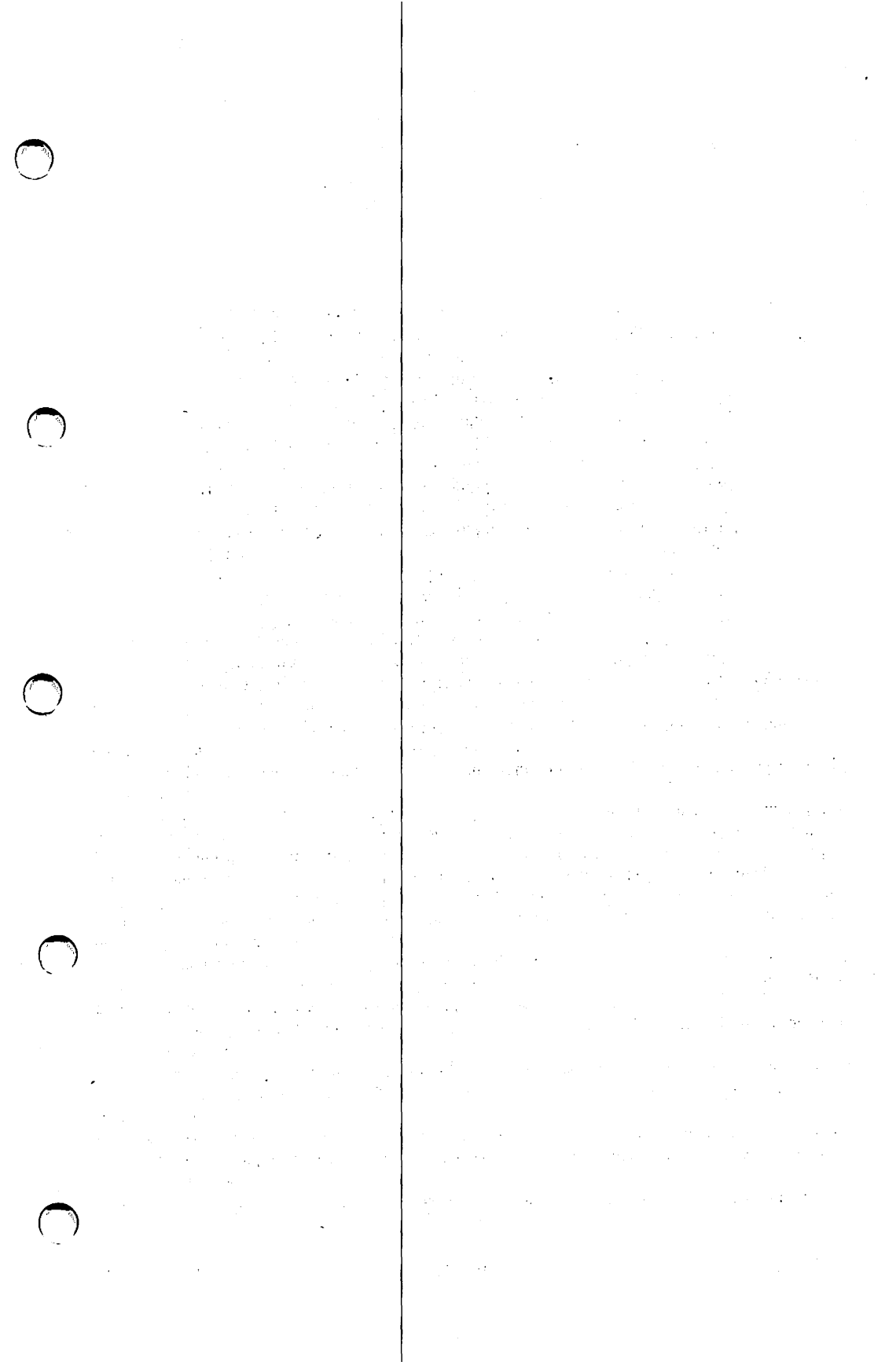
[Filed 12/19/91, Notice 7/24/91—published 1/8/92, effective 2/12/92]

[Filed emergency 2/20/92—published 3/18/92, effective 2/20/92]

[Filed emergency 3/9/94—published 3/30/94, effective 3/9/94]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed emergency 11/9/00—published 11/29/00, effective 11/9/00]



CHAPTER 14  
FAIR INFORMATION PRACTICES

The board of nursing hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to fair information practices printed in the first volume of the Iowa Administrative Code.

**655—14.1(17A,22) Definitions.**

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “board of nursing”.

**655—14.3(17A,22) Requests for access to records.**

**14.3(1)** In lieu of the words “(insert agency head)”, insert “Executive Director”.

In lieu of the words “(insert agency name and address)”, insert “the Board of Nursing, 1223 East Court Avenue, Des Moines, Iowa 50319”.

**14.3(2) Office hours.** In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “Monday through Friday from 8 a.m. to 4:30 p.m., excluding legal holidays”.

**14.3(7) Fees.**

c. In lieu of the words “(specify time period)”, insert “one hour”.

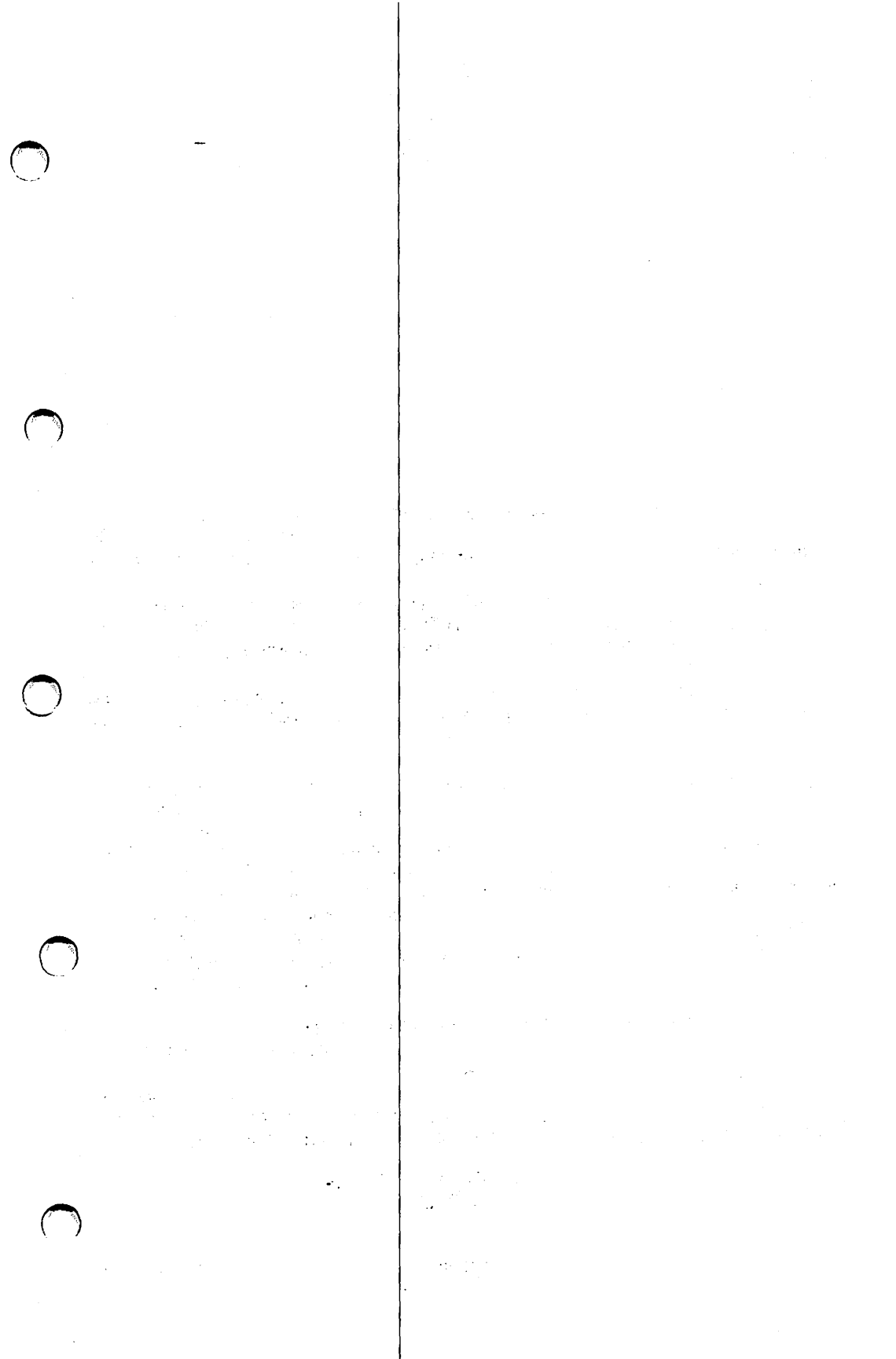
Delete the words “(An agency wishing to deal with search fees authorized by law should do so here.)”.

**655—14.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** In lieu of the words “(designate office)”, insert “the board of nursing”.

**655—14.7(17A,22) Consent to disclosure by the subject of a confidential record.** Delete the words “(and, where applicable, the time period during which the record may be disclosed)” and “(Additional requirements may be necessary for special classes of records.)”.

**655—14.8(17A,22) Notice to suppliers of information.** Delete the words “(Each agency should revise its forms to provide this information.)”.

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]



CHAPTER 15  
· WAIVER AND VARIANCE RULES

**655—15.1(147,ExecOrd8,78GA,ch1176) Definition.** For purposes of this chapter, a “waiver or variance” means action by a division board, which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term “waiver” shall include both a waiver and a variance.

**655—15.2(147,ExecOrd8,78GA,ch1176) Scope of chapter.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by division boards in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

**655—15.3(147,ExecOrd8,78GA,ch1176) Applicability of chapter.** A division board may only grant a waiver from a rule if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. A division board may not waive requirements created or duties imposed by statute.

**655—15.4(147,ExecOrd8,78GA,ch1176) Criteria for waiver or variance.** In response to a petition completed pursuant to rule 15.6(147,ExecOrd8,78GA,ch1176), a division board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

**655—15.5(147,ExecOrd8,78GA,ch1176) Filing of petition.** A petition for a waiver must be submitted in writing to the board, as follows:

**15.5(1) License application.** If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

**15.5(2) Contested cases.** If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

**15.5(3) Other.** If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the board’s executive secretary.

**655—15.6(147,ExecOrd8,78GA,ch1176) Content of petition.** A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person or entity for whom a waiver is requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.

4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 15.4(147,ExecOrd8,78GA,ch1176). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the board and the petitioner relating to the regulated activity or license affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

6. Any information known to the requester regarding the board's treatment of similar cases.

7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver.

8. The name, address, and telephone number of any person or entity who would be adversely affected by the grant of a waiver.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

**655—15.7(147,ExecOrd8,78GA,ch1176) Additional information.** Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive secretary, a committee of the board, or a quorum of the board.

**655—15.8(147,ExecOrd8,78GA,ch1176) Notice.** The board shall acknowledge a petition upon receipt. The board shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the board attesting that notice has been provided.

**655—15.9(147,ExecOrd8,78GA,ch1176) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case, and shall otherwise apply to agency proceedings for a waiver only when the board so provides by rule or order or is required to do so by statute.

**655—15.10(147,ExecOrd8,78GA,ch1176) Ruling.** An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

**15.10(1) Board discretion.** The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.



**15.10(2) *Burden of persuasion.*** The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

**15.10(3) *Narrowly tailored exception.*** A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

**15.10(4) *Administrative deadlines.*** When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

**15.10(5) *Conditions.*** The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

**15.10(6) *Time period of waiver.*** A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

**15.10(7) *Time for ruling.*** The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**15.10(8) *When deemed denied.*** Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

**15.10(9) *Service of order.*** Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

**655—15.11(147,ExecOrd8,78GA,ch1176) *Public availability.*** All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

**655—15.12(147,ExecOrd8,78GA,ch1176) *Summary reports.*** Semiannually, each division board shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

**655—15.13(147,ExecOrd8,78GA,ch1176) Cancellation of a waiver.** A waiver issued by a division board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

**655—15.14(147,ExecOrd8,78GA,ch1176) Violations.** Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

**655—15.15(147,ExecOrd8,78GA,ch1176) Defense.** After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

**655—15.16(147,ExecOrd8,78GA,ch1176) Judicial review.** Judicial review of the board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapter 147, Executive Order Number 8, and 2000 Iowa Acts, chapter 1176.

[Filed 11/9/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]

## PHARMACY EXAMINERS BOARD[657]

[Prior to 2/10/88, see Pharmacy Examiners, Board of [620], renamed Pharmacy Examiners Board[657]  
under the "umbrella" of Public Health Department by 1986 Iowa Acts, ch 1245]

### CHAPTER 1

#### PURPOSE AND ORGANIZATION

- 1.1(17A) Description and organization
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CHAPTER 9

Reserved

**8.32(4) Storage.** The emergency/first dose drug supply shall be stored in an area suitable to prevent unauthorized access and to ensure a proper environment for preservation of medications contained therein as required in official compendia. The provider pharmacist, as defined in subrule 8.32(2), is responsible for establishing procedures to maintain the security of the emergency/first dose drug supply.

**8.32(5) Labeling—exterior.** The exterior of an emergency/first dose drug supply shall be labeled clearly and shall unmistakably indicate that it is an emergency/first dose drug supply. Such label shall also contain a listing of the name, strength, and quantity of the drugs contained therein and an expiration date of the supply based upon the earliest expiration date of any drug contained in the supply.

**8.32(6) Labeling—interior.** All drugs contained in the emergency/first dose drug supply shall be labeled in accordance with subrule 8.3(2) or 657—subrule 23.12(2), as appropriate.

**8.32(7) Removal of medication.** Medication shall be removed from the emergency/first dose drug supply only pursuant to a valid prescription order and by authorized personnel or by the provider pharmacist. The provider pharmacy shall be notified that medication was administered to a specific patient prior to the administration of a second dose. Upon notification, the provider pharmacist shall perform drug use review to assess the appropriateness of drug therapy for the patient.

**8.32(8) Notifications.** Whenever an emergency/first dose drug supply is opened or has expired, the provider pharmacy shall be notified and the pharmacist shall be responsible for replacing the medication within 72 hours to prevent risk of harm to patients. Policy must be developed by the provider pharmacist to address notification, record keeping, and documentation procedures for use of the supply.

**8.32(9) Procedures.**

a. The consultant or provider pharmacist shall, in communication with the director of nursing of the facility and the medical director of the facility, or their respective designees, develop and implement written policies and procedures to ensure compliance with this rule.

b. The provider pharmacy shall keep a complete record of each controlled substance stored in the emergency/first dose drug supply and the number of doses provided.

c. The facility shall keep a complete record of the use of controlled substances from the emergency/first dose drug supply for two years, including the patient's name, the date of use, the name of the drug used, the strength of the drug, the number of doses used, the name of the prescriber authorizing the administration, and the initials of the person administering the dose.

**8.32(10) Penalty.** If any of the provisions of this rule are violated, the board may suspend, revoke, or otherwise discipline a pharmacy's license and a pharmacist's license and may modify, suspend, or revoke the controlled substances registrations of the pharmacy and the noncompliant facility.

**657—8.33(147,155A) Supervision of pharmacists who administer adult immunizations.** A physician may prescribe via written protocol adult immunizations for influenza and pneumococcal vaccines for administration by an authorized pharmacist if the physician meets these requirements for supervising the pharmacist.

**8.33(1) Definitions.**

a. "Authorized pharmacist" means an Iowa-licensed pharmacist who has documented that the pharmacist has successfully completed an educational program meeting the training standards on vaccine administration as provided by an American Council on Pharmaceutical Education (ACPE)-approved provider of continuing pharmaceutical education that:

(1) Requires documentation by the pharmacist of current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers;

(2) Is an evidence-based course that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current Centers for Disease Control and Prevention guidelines, and provides instruction and experiential training in the following content areas:

1. Standards for immunization practices;

2. Basic immunology and vaccine protection;
3. Vaccine-preventable diseases;
4. Recommended immunization schedules;
5. Vaccine storage and management;
6. Informed consent;
7. Physiology and techniques for vaccine administration;
8. Pre- and post-vaccine assessment and counseling;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. "Vaccine" means a specially prepared antigen which, upon administration to a person, will result in immunity and, specifically for the purposes of this rule, shall mean influenza and pneumococcal vaccines.

c. "Written protocol" means a physician's order for one or more patients that contains, at a minimum, the following:

(1) A statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of administration of adult immunizations for influenza and pneumococcus;

(2) A statement identifying the individual authorized pharmacists;

(3) A statement that forbids an authorized pharmacist from delegating the administration of adult immunizations to anyone other than another authorized pharmacist or a registered nurse;

(4) A statement identifying the vaccines that may be administered by an authorized pharmacist, the dosages, and the route of administration;

(5) A statement identifying the activities an authorized pharmacist shall follow in the course of administering adult immunizations, including:

1. Procedures for determining if a patient is eligible to receive the vaccine;

2. Procedures for determining the appropriate scheduling and frequency of drug administration in accordance with applicable guidelines;

3. Procedures for record keeping and long-term record storage including batch or identification numbers;

4. Procedures to follow in case of life-threatening reactions; and

5. Procedures for the pharmacist and patient to follow in case of reactions following administration;

(6) A statement that describes how the authorized pharmacist shall report the administration of adult immunizations, within 30 days, to the physician issuing the written protocols and to the patient's primary care physician if one has been designated by the patient. In case of serious complications, the authorized pharmacist shall notify the physicians within 24 hours and submit a VAERS report to the bureau of immunizations, Iowa department of public health. (VAERS is the Vaccine Advisory Event Reporting System.) A serious complication is one that requires further medical or therapeutic intervention to effectively protect the patient from further risk, morbidity, or mortality.

**8.33(2) Supervision.** A physician who prescribes adult immunizations to an authorized pharmacist for administration shall adequately supervise that pharmacist. Physician supervision shall be considered adequate if the delegating physician:

a. Ensures that the authorized pharmacist is prepared as described in subrule 8.33(1), paragraph "a";

b. Provides a written protocol that is updated at least annually;

c. Is available through direct telecommunication for consultation, assistance, and direction, or provides physician backup to provide these services when the physician supervisor is not available;

d. Is an Iowa-licensed physician who has a working relationship with an authorized pharmacist within the physician's local provider service area.

**8.33(3) Administration of other adult immunizations by pharmacists.** A physician may prescribe, for an individual patient by prescription or medication order, other adult immunizations to be administered by an authorized pharmacist.

This rule is intended to implement Iowa Code sections 147.76, 155A.3, 155A.4, and 272C.3.

[Filed 4/11/68; amended 11/14/73]

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

- [Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
- [Filed 7/30/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]
- [Filed 1/21/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]
- [Filed 3/12/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
- [Filed 5/21/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]
- [Filed 10/22/92, Notice 9/2/92—published 11/11/92, effective 1/1/93]
- [Filed 2/5/93, Notice 11/11/92—published 3/3/93, effective 4/8/93]
- [Filed 9/23/93, Notice 5/26/93—published 10/13/93, effective 11/17/93]
- [Filed 3/21/94, Notices 10/13/93, 12/8/93—published 4/13/94, effective 5/18/94]
- [Filed 6/24/94, Notice 4/13/94—published 7/20/94, effective 8/24/94]
- [Filed 11/30/94, Notices 5/11/94, 7/20/94—published 12/21/94, effective 1/25/95]
- [Filed 3/22/95, Notice 11/9/94—published 4/12/95, effective 5/31/95]
- [Filed 10/6/95, Notices 6/7/95, 8/16/95—published 10/25/95, effective 1/1/96]
- [Filed emergency 12/14/95—published 1/3/96, effective 1/1/96]
- [Filed 12/10/96, Notice 8/28/96—published 1/1/97, effective 2/5/97]
- [Filed 2/27/97, Notice 8/28/96—published 3/26/97, effective 4/30/97]
- [Filed 2/27/97, Notice 1/1/97—published 3/26/97, effective 4/30/97]
- [Filed 6/23/97, Notice 3/26/97—published 7/16/97, effective 8/20/97]
- [Filed 11/19/97, Notice 10/8/97—published 12/17/97, effective 1/21/98]
- [Filed 4/24/98, Notice 3/11/98—published 5/20/98, effective 6/24/98]
- [Filed 7/31/98, Notice 5/20/98—published 8/26/98, effective 10/15/98]
- [Filed 4/22/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]
- [Filed 11/23/99, Notice 6/2/99—published 12/15/99, effective 1/19/00]
- [Filed 2/18/00, Notice 12/15/99—published 3/22/00, effective 4/26/00]
- [Filed 11/9/00, Notice 4/19/00—published 11/29/00, effective 1/3/01]

**CHAPTER 9  
DISCIPLINE**

[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 10]

Rescinded IAB 5/19/99, effective 6/23/99; see 657—Chapter 35



- c. *Electrical.* Floor and ceiling plans, lighting, receptacles, motors and other equipment. Service entry location, line diagram, and wire, conduit and breaker sizes.
- d. *Plumbing.* Floor plan, fixtures, pipe sizes and other equipment and materials. Isometric with pipe sizes, fixture schedule and sewage disposal.
- e. *Mechanical.* Floor or ceiling plans, equipment, distribution location, size and flow. Locate dampers and safeguards. Indicate all materials.
- f. *Handicapped accessibility.* Details and information showing compliance with Division VII of this code.
- g. *Energy conservation.* Details and information showing compliance with Division VIII of this code and a copy of the statement of review filed with the building code commissioner when required.
- h. *Fire stopping.* Plans for buildings more than two stories in height of other than Group R, Division III and M Occupancies shall indicate how a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.
- i. *Soils data.* A soils report by a recognized authority shall be filed with plans and specifications.
- j. *Other.* Any additional information may be requested to substantiate that the project is in compliance with this code.
- k. *Responsibility.* Approval by the commissioner or the commissioner's designee of any plan review does not alter the responsibility of the professional certifying such design.

**16.131(2) Fees.** See Division VI, Division VII and Division VIII for fees pertaining to factory-built structures and installation, handicapped accessibility reviews and energy conservation standards.

- a. Copies of the state building code administration section will be supplied to any governmental subdivision or state agency free of charge, upon request.
- b. Copies of the state building code administration section are available to any person upon request and payment of a \$10 printing and handling charge.
- c. The fees for completion of building code plan reviews, which shall be reviews for compliance with 661—Chapter 5 and 661—Chapter 16, excluding mechanical, electrical, plumbing, and accessibility provisions, shall be calculated as follows:

	Preliminary Plan Review Meeting (Optional)	Plan Review Fee	Plan Review Fee Including Optional Preliminary Plan Review Meeting
AREA IN SQUARE FEET	Cost	Cost	Cost
Up to 5,000	\$75	\$200	\$275
5,001-10,000	\$100	\$300	\$400
10,001-20,000	\$125	\$400	\$525
20,001-50,000	\$150	\$500	\$650
50,001-100,000	\$200	\$600	\$800
100,001-150,000	\$200	\$1,000	\$1,200
150,001-200,000	\$200	\$1,200	\$1,400
200,001-250,000	\$200	\$1,400	\$1,600
250,001-300,000	\$250	\$1,600	\$1,850
300,001-350,000	\$250	\$1,800	\$2,050
350,001-400,000	\$250	\$2,000	\$2,250
400,001-450,000	\$300	\$2,200	\$2,500
More than 450,000	\$300	\$2,400	\$2,700

Payment of the assigned fee shall accompany each plan when submitted for review. Payment may be made by credit card, or money order, check or draft made payable to the "Iowa Department of Public Safety—Building Code Bureau".

d. A person who has submitted a plan for review for which a fee has been assessed pursuant to paragraph "c" is eligible to receive a refund of the fee if the plan has not been approved or rejected within 60 calendar days of its receipt by the building code bureau. A person who believes that a refund is due shall notify the building code commissioner who shall provide a form to the person who submitted the plan for review to request a refund. If the request for refund is approved, the building code commissioner shall cause a check for the amount of the refund to be issued to the individual or organization that originally paid the fee. If the original submission of the plan is incomplete, the fee shall be refunded only if the plan has not been approved or rejected within 60 days of a full and complete submission of the plan. "Approved or rejected within 60 days" means that a letter approving or rejecting the plan has been presented or mailed to the submitter within 60 days of the date of receipt by the building code bureau, within the meaning of "time" as defined in Iowa Code section 4.1.

**661—16.132(470) Life cycle cost analysis.** Any public agency, as defined by Iowa Code section 470.1(1), shall prepare a life cycle cost analysis for any new construction having 20,000 square feet of usable floor space which is heated or cooled by a mechanical or electrical system or for any renovation where additions or alterations exceed 50 percent of the value of the facility and will affect an energy system.

The life cycle cost analysis shall be prepared in compliance with Iowa Code chapter 470 and be submitted to the state building code commissioner before construction commences.

Those public agencies which are a state agency under Iowa Code section 7D.34 shall, within 60 days of final selection of a design architect or engineer, notify the commissioner and the department of natural resources of the methodology to be used to perform the life cycle cost analysis on the forms provided by the department of natural resources. A life cycle cost analysis prepared by a state agency shall be submitted in sufficient time ahead of releasing of plans for bids to allow for revisions or additions which may be made to the plans.

**661—16.133 to 16.139** Reserved.

#### PART 4

**661—16.140(103A) General construction rules and regulations.**

**16.140(1) Adoption.** Chapters 2 to 10 and 12 to 35 on standards with all appendices of the Uniform Building Code, 1994 edition, and all standards of the Uniform Building Code standards, 1994 edition, as published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298, are hereby adopted by reference as the construction rules and regulations Division I, Part 4 of the Iowa state building code, administration section, with the following deletions, revisions and amendments:

a. Chapter 1 of the Uniform Building Code, 1994 edition, is replaced by the administration rules and regulations, Division I, Parts 1, 2 and 3 of this code.

b. Delete the following appendix Chapters: A10, A11, A13, A15, A19, A23, A29, A30, A33, and A34 entirely, and Divisions I and II of appendix Chapter 4 and Division III of appendix Chapter 3 and Divisions II and III of appendix Chapter 16.

c. The last paragraph in Section 3405 shall read as follows:

Amend Chapter 34 by deleting the four paragraphs following the title Section 3401 and deleting Sections 3402, 3403 and 3404 in their entirety and adding the following new subsection to Section 3401:

3401.1 Additions, Alterations, Repairs and Moved Buildings. Application of this code to additions, alterations, repairs, or to the moving of existing buildings shall be as stated in IAC 661—Chapter 16, Division I, Parts 1, 2 and 3 and Section 3405.

3401.2 Glass Replacement. The installation of replacement glass shall be as required for new installations.

3401.3 Smoke Detectors. Refer to IAC 661—Chapter 5, rules 661—5.806(100) to 661—5.809(100) for provisions regulating the installation of smoke detectors in existing one- and two-family dwellings.

*d.* Delete Section 2904 and insert in lieu thereof the following:

Section 2904. Access to Water Closets. Each water closet shall be located in a clear space not less than 30 inches in width and have a clear space in front of the water closet stool of not less than 24 inches.

Section 2905. Access to Toilet Facilities for the Physically Handicapped.

2905.1 Toilet facilities which are required to be accessible to the physically handicapped shall meet the requirements of subrule 16.705(8).

2905.2 Access to lavatories, mirrors, towel fixtures, water fountains, and telephones. See subrules 16.705(8), 16.705(9), and 16.705(10) for requirements for lavatories, mirrors, towel fixtures, water fountains, and telephones required to be handicapped accessible.

*e.* Delete the second and third paragraphs of Section 310.4, retaining the exception, and insert in lieu thereof the following:

Access to, and egress from, buildings required to be accessible shall be provided as specified in Division VII of this chapter.

Every sleeping room below the fourth story, and dwelling unit basements which have habitable rooms, shall have at least one operable window or door approved for emergency escape or rescue which shall open directly into a public street, public alley, yard or exit court. The units shall be operable from the inside to provide a full, clear opening without the use of separate tools.

*f.* Delete the last paragraph in 310.1 and replace with the following:

Buildings containing four or more individual dwelling units and all hotels and motels shall comply with the applicable provisions of Division VII of this chapter.

*g.* Delete subparagraph (a) of Section 403.1 and insert in lieu thereof the following:

403.1 Scope. This section shall apply to all Group B office buildings and Group R, Division 1 occupancies, located in buildings which are more than four stories or 65 feet in height above the lowest level of fire department vehicle access, or of greater height than the ladder capability of the local fire department from the lowest level of fire department vehicle access. Such buildings shall be provided with an approved automatic sprinkler system in accordance with Section 403.2.1.

*h.* Amend the first paragraph of Section 403.7 to read as follows:

Section 403.7 Elevators. Elevators and elevator lobbies shall comply with the provisions of Iowa Administrative Code 875—Chapters 71, 72, and 73.

*i.* Rescinded, effective December 21, 1988.

*j.* Delete the second paragraph of Section 1605.4 and insert in lieu thereof the following:

Potential accumulation of snow at valleys, parapets, roof structures and offsets in roofs of uneven configuration shall be considered. The minimum value of ground snow load to be used in the determination of design snow loads of buildings and other structures shall be as shown in A-16-2 of Division I of appendix Chapter 16, Volume 2. The ground snow load may be adjusted by the building official when a registered engineer or architect submits data substantiating the adjustments.

*k.* Add a new Subsection 1609.6 to read as follows:

1609.6 Special construction requirements:

A. Foundation walls. Notwithstanding other design requirements of Chapters 18, 19 and 21, foundation walls for Group R, Division 3, occupancies of Type V construction may be constructed in accordance with the following provisions, provided the application, or building site conditions affecting the walls, are within the limitation specified herein.

1. The maximum height of the foundation wall shall be no more than 7 feet 8 inches measured between the foundation plate and a concrete floor slab having a minimum thickness of 3½ inches. If a floor slab having a thickness of 3½ inches is not provided, a specially designed means of providing lateral support at the bottom of the wall shall be required.

2. The foundation plate shall be attached to the wall as prescribed in Section 1806.6.

3. Material used for backfilling shall be carefully placed granular soil of average or high permeability except the top 2 feet may be an impervious type material and shall be drained with an approved drainage system. The wood and earth separation requirements of Section 2317.8 shall be observed at all times.

4. Where soils containing a high percentage of clay, fine silt or similar material of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.

**B. Hollow Concrete Masonry Foundation Walls.**

1. Hollow concrete masonry units shall be set in Type M or Type S mortar.

2. All footings shall be of cast-in-place concrete having a minimum compressive strength of 2,500 pounds per square inch at 28 days, and shall be reinforced longitudinally with not less than a half-inch steel bar for one-story construction, or two half-inch steel bars for two-story construction. Footing reinforcement shall be symmetrically placed and located so as to ensure no less than 3 inches of concrete cover on all sides.

3. Masonry foundation walls having a nominal thickness of not less than 12 inches may be unreinforced. Other masonry foundation walls shall comply with the following requirements:

(i) The nominal thickness of concrete masonry units shall not be less than 8 inches.

(ii) When a foundation wall has a horizontal clear span of more than 12 feet between supporting cross walls or corners, fully grouted vertical reinforcing shall be provided in the center of the wall in the amount of 0.075 square inches of ASTM A615 grade 40 or better steel, per lineal foot of wall. All reinforcing steel shall be deformed bars spaced no more than 8 feet on center. All grout shall comply with Section 2103.4.1.

**C. Cast-in-place plain concrete foundation walls.** Cast-in-place walls constructed under the provisions of this subsection shall be concrete having a minimum compressive strength of 28 days of not less than 3,000 pounds per square inch. All materials proportioning and placing shall conform to the requirements of Chapter 19. In addition, the following shall apply:

(i) The minimum thickness of a wall shall be 7½ inches.

(ii) Walls shall be reinforced with no less than three half-inch diameter deformed ASTM A615 grade 40 steel bars placed horizontally at the center of the wall, with one bar located near the top, one bar located near the bottom, and one bar located near mid-height of the wall. Reinforcing bars and methods of placement shall be in accordance with Chapter 19.

*l.* Rescinded, effective December 21, 1988.

*m.* Revise Exception 1 of Section 1806.2 to read as follows:

**EXCEPTION: 1.** A one-story wood or metal frame building not used for human occupancy and not over 720 square feet in floor area may be constructed with walls supported on a wood foundation plate when approved by the building official authority having jurisdiction.

*n.* Delete Table No. 18-I-D and insert in lieu thereof the following:

Number of Floors Supported By the Foundation <sup>1</sup>	Thickness of Foundation Walls (Inches)		Minimum Width Footing (Inches)	Thickness of Footing (Inches)	Minimum Depth of Foundation Below Natural Surface of Ground or Finish Grade (Whichever is Lower) (Inches)
	Concrete	Unit Masonry			
1	8	8	16	8	42
2	8	8	16	8	42
3	10	12	18	12	42

<sup>1</sup>Foundations may support a roof in addition to the stipulated number of floors. Foundations supporting roofs only shall be as required for supporting one floor.

*a. New construction.* At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility. One passenger elevator complying with subrule 16.705(7) shall serve each level, including mezzanines, in all multistory buildings and facilities unless exempted below. If more than one passenger elevator is provided, each elevator shall comply with subrule 16.705(7).

EXCEPTION 1: Elevators are not required in facilities that are less than three stories or that have less than 3,000 square feet per story unless the building is a governmental facility, a shopping center, a shopping mall or the professional office of a health care provider. The elevator exemption set forth in this paragraph does not obviate or limit in any way the obligation to comply with the other accessibility requirements. Floors above or below the accessible ground floor must meet the requirements of this subrule except for elevator service. If toilet or bathing facilities are provided on a level not served by an elevator, then toilet or bathing facilities must be provided on the accessible ground floor. If a building or facility is eligible for this exemption but a full passenger elevator is nonetheless planned, that elevator shall meet the requirements of subrule 16.705(7) and shall serve each level in the building. A full passenger elevator that provides service from a garage to only one level of a building or facility is not required to serve other levels.

EXCEPTION 2: Accessible ramps complying with subrule 16.705(1) may be used in lieu of an elevator.

EXCEPTION 3: Platform lifts (wheelchair lifts) complying with subrule 16.705(7) may be used in lieu of an elevator only under the following conditions:

1. To provide an accessible route to a performing area in an assembly occupancy.
2. To comply with the wheelchair viewing position line-of-sight and dispersion requirement of subrule 16.705(14).
3. To provide access where existing site constraints or other constraints make use of a ramp or an elevator infeasible.

EXCEPTION 4: Elevators are not required in apartment buildings of less than four stories.

*b. Existing construction.* For existing buildings or facilities or parts of existing buildings or facilities which are required to meet the accessibility provisions of this code and in which practical difficulties exist in carrying out all of the provisions of this code, the following minimum requirements shall apply:

(1) At least one accessible route complying with subrules 16.704(3) and 16.704(4) shall be provided to the building or facility.

(2) If it is established by a person having that authority that no entrance used by the general public can comply, then access at another entrance or entrances may be used provided directional signage is clearly located and displayed.

(3) When toilets are provided, at least one shall comply with subrule 16.705(8); the toilet facility may be unisex.

(4) Accessible routes shall be provided within a building or facility to those areas open to the general public on at least the level of access for the physically handicapped complying with this subrule. Whenever practical all levels of a building or facility shall be accessible.

NOTE: For the purposes of paragraph "b," practical difficulties means: changes giving full access having little likelihood of being accomplished without incurring an increased cost of 50 percent of the replacement value of the building, structure or facility involved.

**16.705(4) Doors and doorways.** These requirements shall apply to interior and exterior doors which are located in areas which are accessible to the physically handicapped. (See Figure 4.)

*a. Exterior doors.* Doors at the primary entrance or entrances at grade level shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort. The floor on the inside and outside of each doorway shall be level for a distance of 5 feet from the door in the direction the door swings and shall extend 1 foot beyond each side of the door. Sharp inclines and abrupt changes in level shall be avoided at door sills. Thresholds, as much as possible, should be flush with the floor.

*b. Interior doors.* Interior doors which are located in areas which are accessible to the physically handicapped shall meet the same requirements as for exterior doors in "a" except that the floor extension need be on the operating side only.

NOTE: Fig. 4 is included to indicate the current recommendations of ANSI A117.1-1986. Some dimensions shown exceed the requirements of this code.

*c. General.* All doors to accessible spaces or in accessible routes shall meet the following:

(1) Thresholds at doorways shall not exceed  $\frac{3}{4}$  inch in height for exterior sliding doors or  $\frac{1}{2}$  inch for other types of doors.

(2) The maximum force for pushing or pulling open a door shall be 8.5 pounds for exterior hinged doors; 5.0 pounds for sliding, folding or interior hinged doors. Fire doors shall have the minimum force allowable by the local or state building code. These forces do not apply to the force required to retract latch sets.

(3) The minimum space between two hinged or pivoted doors in series shall be 48 inches plus the width of any door swinging into the space. Doors in series shall swing either in the same direction or away from the space between the doors.

(4) Handles, pulls, latches, locks and other operating devices on accessible doors should have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching or twisting of the wrist to operate.

(5) If a door has a closer, then the sweep period of the closer should be adjusted so that from an open position of 70 degrees, the door will take at least 3 seconds to move to a point 3 inches from the latch, measured to the leading edge of the door.

(6) Minimum maneuvering clearances for doors that are not automatic should be as shown in Fig. 4. The floor or ground area within the required clearances shall be level and clear. Entry doors to acute care hospital patient bedrooms shall be exempt from the requirement for space at the latch side of the door (see dimension "x" in Fig. 4) if the door is at least 44 inches wide.

(7) Doorways shall have a minimum clear opening of 32 inches with the door open 90 degrees and measured between the face of the door and the stop (Fig. 4). Openings more than 24 inches long shall comply with 16.705(4) "a" and 16.705(4) "b" (see Figure 4).

**16.705(5) Stairs.** Stairs that are required as a means of egress and stairs which are part of an accessible route shall conform to the construction for stairs in the Iowa state building code or other applicable codes with the following additional requirements:

*a. Nosings.* Steps in stairs that might require use by those with disabilities and by the aged shall not have abrupt lipped nosing.

**16.802(9)** Section 403.2.4 is amended by adopting the ventilation standard established by the Uniform Building Code, 1991 edition, published by the International Conference of Building Officials as the referent for the minimum ventilation requirement.

**16.802(10)** The first exception to section 403.2.6.6 is amended by adding the ventilation requirement of the Uniform Building Code, 1991 edition, as the referent for the minimum ventilation requirement.

**16.802(11)** Subsection 403.2.9.3 is amended by adding the following unnumbered paragraph at the end of the subsection:

Provisions of the duct requirements of the Uniform Mechanical Code, 1991 edition, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials shall apply.

These rules are intended to implement Iowa Code section 103A.7 and Public Law 102-486.

[Filed and effective 7/15/75]

[Filed 7/7/77, Notice 4/20/77—published 7/27/77, effective 9/1/77]

[Filed 11/14/77, Notice 9/21/77—published 11/30/77, effective 1/4/78]

[Filed emergency 12/13/77—published 12/28/77, effective 1/4/78]

[Filed 9/27/78, Notice 3/22/78—published 10/18/78, effective 11/22/78]

[Filed emergency after Notice 2/6/79—published 3/7/79, effective 2/6/79, Notice 11/1/78]†

[Filed 12/15/80, Notice 6/25/80—published 1/7/81, effective 3/1/81]\*

[Filed 10/30/81, Notice 9/2/81—published 11/25/81, effective 1/1/82]

[Filed 6/16/83, Notice 4/13/83—published 7/6/83, effective 8/12/83]

[Filed 8/10/84, Notice 5/23/84—published 8/29/84, effective 10/3/84]

[Filed 10/17/86, Notice 7/16/86—published 11/5/86, effective 1/1/87]

[Filed 12/23/86, Notice 7/16/86—published 1/14/87, effective 2/19/87]

[Filed 8/31/87, Notice 6/3/87—published 9/23/87, effective 11/1/87]

[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]

[Filed 10/25/88, Notice 9/7/88—published 11/16/88, effective 1/1/89]\*\*

[Filed emergency 7/21/89—published 8/9/89, effective 7/21/89]

[Filed 10/13/89, Notice 8/9/89—published 11/1/89, effective 12/6/89]

[Filed 12/22/89, Notice 10/18/89—published 1/10/90, effective 2/14/90]

[Filed emergency 1/17/90—published 2/7/90, effective 2/14/90]

[Filed emergency 12/21/90—published 1/9/91, effective 1/1/91]

[Filed 3/29/91, Notice 11/28/90—published 4/17/91, effective 6/1/91]

[Filed 5/10/91, Notice 4/3/91—published 5/29/91, effective 7/3/91]

[Filed 8/28/92, Notice 5/27/92—published 9/16/92, effective 11/1/92]

[Filed 2/12/93, Notice 10/14/92—published 3/3/93, effective 5/1/93]

[Filed 9/23/94, Notice 7/6/94—published 10/12/94, effective 11/16/94]

[Filed 5/16/97, Notice 11/20/96—published 6/4/97, effective 7/15/97]

[Filed 11/26/97, Notice 10/22/97—published 12/17/97, effective 2/1/98]

[Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]

[Filed 11/9/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]

\*Effective date of IAB amendments to [O.P.P. 5.600 to 5.629] Division VI (16.600 to 16.629) delayed 70 days by the Administrative Rules Review Committee.

†Inadvertently dropped out from 1/7/81 IAC Supplement replacement pages.

\*\*Effective date (1/1/89) of 16.120(2)[3802“h” only] delayed until adjournment of the 1988 Session of the General Assembly by the Administrative Rules Review Committee at its December 13, 1988, meeting.

## CHAPTER 17 CRIME VICTIM REPARATION

[Prior to 4/20/88, see Public Safety Department[680] Ch 17]

Program transferred to the Department of Justice—Attorney General[61] Ch 9, IAB 9/20/89. See 1989 Iowa Acts, House File 700.





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**CHAPTER 18  
TAXABLE AND EXEMPT SALES  
DETERMINED BY METHOD OF  
TRANSACTION OR USAGE**

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- |                |  |                         |  |
|----------------|--|-------------------------|--|
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|                |  | 19.8(422,423)           | Machinery and equipment sales contracts with installation  |
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**701—17.33(422,423) Sales of building materials, supplies and equipment to not-for-profit rural water districts.** Retroactive to July 1, 1998, sales of building materials, supplies, and equipment to not-for-profit rural water districts (those organized under Iowa Code chapter 504A and as provided by Iowa Code chapter 357A), which are used by the districts for the construction of their facilities, are exempt from tax. See rule 701—19.3(422,423) for definitions of the terms “building materials,” “building supplies,” and “building equipment” which are applicable to this rule. Additionally, for the purposes of this rule, cranes, underground boring machines, water main pulling equipment, and similar machinery used by a rural water district for the construction of its facilities are “building equipment.” This rule does not exempt rentals of building equipment from tax, but a rural water district’s rentals of building equipment may be exempt from tax if the rental is on or in connection with new construction, alteration, reconstruction, remodeling, or expansion of real property or a structure. See rule 701—19.13(422,423).

This rule is intended to implement Iowa Code section 422.45 as amended by 1999 Iowa Acts, chapter 59.

**701—17.34(422,423) Sales to hospices.** As of July 1, 1999, gross receipts from the sale or rental of tangible personal property to or the performance of services for any freestanding nonprofit hospice facility which operates a hospice program are exempt from tax if the property or service is purchased for use in the hospice’s program. A “hospice program” is any program operated by a public agency, a private organization, or a subdivision of either, which is primarily engaged in providing care to terminally ill individuals. A “freestanding hospice facility” is any hospice program housed in a building which is dedicated only to the hospice program and which is not attached to any other building or complex of buildings. An individual is “terminally ill” if that individual has a medical prognosis that the individual’s life expectancy is six months or less if the illness runs its normal course.

This rule is intended to implement Iowa Code section 422.45 as amended by 1999 Iowa Acts, chapter 62.

**701—17.35(422,423) Sales of livestock ear tags.** On and after July 1, 2000, sales of livestock ear tags by a nonprofit organization, the income of which is exempt from federal taxation under Section 501(c)(6) of the Internal Revenue Code, are exempt from tax if the proceeds of those sales are used in bovine research programs selected or approved by the nonprofit organization. For the purposes of this rule, the definition of “livestock” is found in subrule 17.9(1).

This rule is intended to implement Iowa Code Supplement section 422.45 as amended by 2000 Iowa Acts, chapter 1169.

**701—17.36(422,423) Sale or rental of information services.** Effective May 15, 2000, and retroactive to March 15, 1995, the gross receipts from the service of the sale or rental of information services are exempt from tax. This exemption does not repeal by implication the tax on the performance of the services of investment counseling, of all financial institutions, private employment agencies, test laboratories, detective services, or any other services enumerated by statute. They remain taxable; see 701—Chapter 26, generally.

“Information services” means every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a particular buyer (or its agent) of the information through any tangible or intangible medium. Information accumulated, prepared, or organized for a particular buyer, its agent, a group of buyers, or their agent, is an information service even though it may incorporate preexisting components of data or other information.

Information services include, but are not limited to, database files, mailing lists, subscription files, market research, credit reports, surveys, real estate listings, bond rating reports, abstracts of title, bad check lists, broadcasting rating services, wire services, scouting reports, white and yellow page listings, and other similar items of compiled information prepared for a particular customer. The furnishing of artwork (including musical compositions and films), drawings, illustrations, or other graphic material is not the performance of an "information service"; nor does the term include information prepared for general dissemination to the public in the form of books, magazines, newsletters, video or audio tapes, compact disks, or any other medium commonly used to communicate with large numbers of customers. The sale of a book, magazine, or similar item is not the sale of an information service, even if the item contains material of practical use (e.g., in conducting a private, for-profit business) to its purchaser.

The following specific examples illustrate the general principles set out above.

**EXAMPLE A.** John Doe buys a packaged set of preprinted documents and instructions which anyone may purchase and which is entitled "Legal Eagle." Mr. Doe prepares his own will by reading the instructions, making choices and filling in the blanks on the preprinted documents. Mr. Doe has purchased tangible personal property and not an information service. His purchase is taxable.

**EXAMPLE B.** A taxpayer buys a book entitled "Doing Your Own Iowa Individual Income Tax," which is written by an accountant and is available to any buyer. The taxpayer uses the book to prepare her own IA 1040. Since her purchase contains information prepared for general dissemination to the public in the form of a book, that purchase is a taxable sale of tangible personal property and not an exempt sale of an information service.

**EXAMPLE C.** The seller provides, for a fee, a weekly bulletin listing information on real estate of use to brokers selling homes in a certain Iowa county. The seller secures the information from a multiple listing service without applying any independent thought during the compiling of that information. The bulletin is useful only to those brokers and not to the general public. Since the bulletin is a "real estate listing" and has been prepared for a particular group of customers and not for the general public, its sale is the sale of an information service rather than the sale of tangible personal property and is thus exempt from tax.

**EXAMPLE D.** A-1 Corporation sells gourmet meats through the mail. A-1 rents its list of customers to whom it mails its catalog to other retailers who specialize in sales of goods or services to the wealthy. Since the list is a "mailing list" and made available only to a particular group of buyers, its rental is the performance of an exempt information service and not the taxable rental of tangible personal property.

**EXAMPLE E.** Company E is a tariff bureau which specializes in compiling and preparing tariff schedules. E acquires these schedules from various companies throughout the country. E then provides these schedules to common carriers who subscribe to its service. Its printed tariff schedules are published in bound and loose-leaf form; they may be updated daily. E's providing the schedules is the performance of an exempt information service because the schedules are compiled for a particular group of customers and they are items of compiled information similar to the files, lists, reports, and other information services named above.

**EXAMPLE F.** Company F compiles and prints telephone directories. F purchases white and yellow page listings from various telephone companies and uses those listings to make up its directories. F's purchases of the white and yellow page listings are purchases of an exempt information service. Any sales on F's part of the directories to the general public would be sales of tangible personal property subject to tax.

**EXAMPLE G.** Company G purchases the assets of four businesses. The primary asset of each of the businesses is a database containing names, addresses, and other customer information of use to G but not to anyone other than a company similar to G. G transfers the lists to its own computers by way of paper or magnetic tape. G has purchased an exempt information service with its purchases of the four databases.

This rule is intended to implement Iowa Code Supplement section 422.45 as amended by 2000 Iowa Acts, chapter 1195, section 3.

[Filed 12/12/74]

[Filed 11/5/76, Notice 9/22/76—published 12/1/76, effective 1/15/77]

[Filed 9/2/77, Notice 6/15/77—published 9/21/77, effective 10/26/77]

[Filed 4/28/78, Notice 3/22/78—published 5/17/78, effective 7/1/78]

[Filed emergency 4/28/78—published 5/17/78, effective 4/28/78]

[Filed 5/26/78, Notice 3/22/78—published 6/14/78, effective 7/19/78\*]

[Filed 1/5/79, Notice 11/29/78—published 1/24/79, effective 2/28/79]

[Filed 2/16/79, Notice 1/10/79—published 3/7/79, effective 4/11/79]

[Filed 3/15/79, Notice 2/7/79—published 4/4/79, effective 5/9/79]

[Filed emergency 6/11/79—published 6/27/79, effective 7/1/79]

[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 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]

[Filed 2/10/83, Notice 1/5/83—published 3/2/83, effective 4/6/83]

[Filed 3/23/84, Notice 2/15/84—published 4/11/84, effective 5/16/84]

[Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]

[Filed 10/7/85, Notice 8/14/85—published 10/23/85, effective 11/27/85]

[Filed 12/2/85, Notice 7/17/85—published 12/18/85, effective 1/22/86]

[Filed 3/21/86, Notice 9/11/85—published 4/9/86, effective 5/14/86]

[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

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

[Filed 12/29/86, Notice 11/19/86—published 1/14/87, effective 2/18/87]

[Filed 11/12/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]

[Filed 2/5/88, Notice 10/21/87—published 2/24/88, effective 3/30/88]

[Filed 10/14/88, Notice 9/7/88—published 11/2/88, effective 12/7/88]

[Filed 11/23/88, Notice 9/21/88—published 12/14/88, effective 1/18/89]

[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 10/12/90, Notice 9/5/90—published 10/31/90, effective 12/5/90]

[Filed emergency 3/15/91—published 4/3/91, effective 3/15/91]

[Filed 3/15/91, Notice 2/6/91—published 4/3/91, effective 5/8/91]

[Filed 5/10/91, Notice 4/3/91—published 5/29/91, effective 7/3/91]

[Filed 8/16/91, Notice 7/10/91—published 9/4/91, effective 10/9/91]

[Filed 3/26/92, Notice 2/19/92—published 4/15/92, effective 5/20/92]

[Filed 11/6/92, Notice 9/30/92—published 11/25/92, effective 12/30/92]

[Filed 7/1/93, Notice 5/26/93—published 7/21/93, effective 8/25/93]

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

[Filed 10/22/93, Notice 9/15/93—published 11/10/93, effective 12/15/93]

[Filed 10/6/95, Notice 8/30/95—published 10/25/95, effective 11/29/95]◇

[Filed 2/9/96, Notice 1/3/96—published 2/28/96, effective 4/3/96]

[Filed 10/31/96, Notice 9/25/96—published 11/20/96, effective 12/25/96]

[Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]

◇Two ARCs

\*Effective date of 17.3“c” delayed by the Administrative Rules Review Committee at its July 11, 1978, meeting under the provisions of the Sixty-seventh General Assembly, S.F. 244, section 19. See amendment published 3/7/79.

- [Filed 4/17/98, Notice 12/3/97—published 5/6/98, effective 6/10/98]
- [Filed 8/5/98, Notice 7/1/98—published 8/26/98, effective 9/30/98]
- [Filed 10/15/98, Notice 9/9/98—published 11/4/98, effective 12/9/98]
- [Filed 10/30/98, Notice 9/23/98—published 11/18/98, effective 12/23/98]
- [Filed 3/19/99, Notice 2/10/99—published 4/7/99, effective 5/12/99]
- [Filed 12/10/99, Notice 11/3/99—published 12/29/99, effective 2/2/00]
- [Filed 10/27/00, Notice 9/20/00—published 11/15/00, effective 12/20/00]
- [Filed 11/9/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]





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