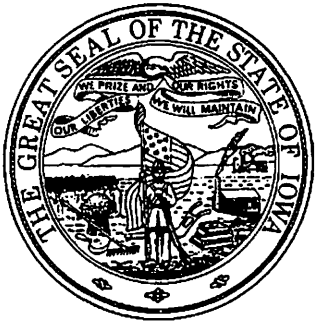
State of Iowa

Iowa Administrative Code Supplement

Biweekly
October 2, 2002



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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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CHAPTER 6
ORGANIZATION OF DOMESTIC INSURANCE COMPANIES

[Appeared as ch 4, 1973 IDR]
[Prior to 10/22/86, Insurance Department[510]]

191—6.1(506) Definitions.

6.1(1) *"Promoters"* shall mean any incorporator, organizer, founder or other person or corporation who, acting alone or in concert with other persons, is initiating or directing, or has within one year initiated or directed, the organization of a new insurance company.

6.1(2) *"Public moneys"* shall mean the price paid by persons other than promoters for securities.

191—6.2(506) Promoters contributions. Promoters shall invest of their own funds at least 20 percent of the proposed issue in cash. If something other than cash is contemplated to meet the requirements of this rule, it shall be valued by the commissioner of insurance in accordance with the provisions of Iowa Code section 492.7.

191—6.3(506) Escrow. All public moneys shall be escrowed 100 percent until the issue is sold unless sooner released by written order of the commissioner of insurance; in the event the issue is not completely sold, all expenses incurred in corporate organization, sale of securities and cost of liquidation shall be paid from funds acquired from promoters.

191—6.4(506) Alienation. In the event of a public offering, no securities held by the promoters shall, for a three-year period from the date of acquisition, be alienated or hypothecated (except by operation of the law) unless the operation of the insurance company produces earned surplus for two consecutive years.

191—6.5(506) Sales to promoters. In the event of a public offering, no securities shall be acquired by promoters at less than the public offering price.

191—6.6(506) Options. In the event of public offering, stock options or warrants acquired by promoters shall not exceed 10 percent of the issue.

191—6.7(506) Qualifications of management. The general plan of organization as contemplated in Iowa Code section 506.3 shall include proposed management personnel with biographical sketches, including state of residence and complete insurance experience of each.

191—6.8(506) Chief executive. The chief executive officer of a newly organized insurance company shall be a bona fide resident of Iowa and unless removed for cause and while acting in this capacity shall devote the entire time to such duties unless this requirement is specifically waived by written order of the commissioner of insurance. For purposes of this rule, a newly organized insurance company shall be deemed to be a company in existence for three years or less.

191—6.9(506) Directors. The majority of the directors shall be bona fide residents of the state of Iowa unless specifically waived by written permission of the commissioner of insurance.

These rules are intended to implement Iowa Code section 506.1.

[Filed 11/21/63]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

CHAPTER 7
DOMESTIC STOCK INSURERS PROXIES
PROXY REGULATIONS
[Appeared as ch 6, 1973 IDR]
[Prior to 10/22/86, Insurance Department[510]]

191—7.1(523) Application of regulation. This regulation is applicable to all domestic stock insurers having 100 or more stockholders; provided, however, that this regulation shall not apply to any insurer if 95 percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than 500 stockholders. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities and Exchange Act of 1934 and the Securities and Exchange Acts Amendments of 1964 and regulation X-14 of the Securities and Exchange Commission promulgated thereunder shall be exempt from the provisions of this regulation.

191—7.2(523) Proxies, consents and authorizations. No domestic stock insurer, or any director, officer or employee of such insurer subject to 7.1(523) hereof, or any other person, shall solicit, or permit the use of the person's name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any stock of such insurer in contravention of this regulation and Schedules A and B hereto annexed and hereby made a part of this regulation.

191—7.3(523) Disclosure of equivalent information. Unless proxies, consents or authorizations in respect of a stock of a domestic insurer subject to 7.1(523) hereof are solicited by or on behalf of the management of such insurer from the holders of record of stock of such insurer in accordance with this regulation and the schedules thereunder prior to any annual or other meeting, such insurer shall, in accordance with this regulation and such further regulations as the commissioner may adopt, file with the commissioner, and transmit to all stockholders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made.

191—7.4(523) Definitions.

7.4(1) The definitions and instructions set out in Schedule SIS, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purposes of this regulation.

7.4(2) The terms "solicit" and "solicitation" for purposes of this regulation shall include:

a. Any request for proxy, whether or not accompanied by or included in a form of proxy; or

b. Any request to execute or not to execute, or to revoke, a proxy; or

c. The furnishing of a proxy or other communication to stockholders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

7.4(3) The terms "solicit" and "solicitation" shall not include:

a. Any solicitation by a person in respect of stock of which the person is the beneficial owner;

b. Action by a broker or other person in respect to stock carried in that person's name or in the name of that person's nominee in forwarding to the beneficial owner of such stock soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

c. The furnishing of a form of proxy to a stockholder upon the unsolicited request of such stockholder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

191—7.5(523) Information to be furnished to stockholders.

7.5(1) No solicitation subject to this regulation shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Schedule A.

7.5(2) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of stockholders at which directors are to be elected, each proxy statement furnished pursuant to 7.5(1) hereof shall be accompanied or preceded by an annual report (in preliminary or final form) to such stockholders containing such financial statements for the last fiscal year as are referred to in Schedule SIS under the heading "Financial Reporting to Stockholders." Subject to the foregoing requirements with respect to financial statements, the annual report to stockholders may be in any form deemed suitable by the management.

7.5(3) Two copies of each report sent to the stockholder pursuant to this rule shall be mailed to the commissioner not later than the date on which such report is first sent or given to stockholders or the date on which preliminary copies of solicitation material are filed with the commissioner pursuant to 7.7(1), whichever date is later.

191—7.6(523) Requirements as to proxy.

7.6(1) The form of proxy *(a)* shall indicate in bold-face type whether or not the proxy is solicited on behalf of the management, *(b)* shall provide a specifically designated blank space for dating the proxy, and *(c)* shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or stockholders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to 7.6(3) hereof.

7.6(2) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in bold-face type how it is intended to vote the shares or authorization represented by the proxy in each such case.

7.6(3) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

7.6(4) No proxy shall confer authority *(a)* to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or *(b)* to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to stockholders.

7.6(5) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to 7.6(2) hereof a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

7.6(6) The information included in the proxy statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements shall be clearly and legibly presented.

191—7.7(523) Material required to be filed.

7.7(1) Two preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to stockholders concurrently therewith shall be filed with the commissioner at least ten days prior to the date definitive copies of such material are first sent or given to stockholders, or such shorter period prior to that date as the commissioner may authorize upon a showing of good cause therefor.

7.7(2) Two preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to stockholders subsequent to the proxy statements shall be filed with the commissioner at least two days (exclusive of Saturdays, Sundays or holidays) prior to the date copies of this material are first sent or given to stockholders or a shorter period prior to such date as the commissioner may authorize upon a showing of good cause therefor.

7.7(3) Two definitive copies of the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to stockholders, shall be filed with, or mailed for filing to, the commissioner not later than the date such material is first sent or given to the stockholders.

7.7(4) Where any proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, two of the copies shall be marked to clearly show such changes.

7.7(5) Copies of replies to inquiries from stockholders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this rule.

7.7(6) Notwithstanding the provisions of 7.7(1) and 7.7(2) hereof and of 7.10(5), copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the commissioner as required by 7.7(3) hereof not later than the date such material is used or published. The provisions of 7.7(1) and 7.7(2) hereof and 7.10(5) shall apply, however, to any reprints or reproductions of all or any part of such material.

191—7.8(523) False or misleading statements. No solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

191—7.9(523) Prohibition of certain solicitations. No person making a solicitation which is subject to this regulation shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the stockholder.

191—7.10(523) Special provisions applicable to election contests.

7.10(1) *Applicability.* This rule shall apply to any solicitation subject to this regulation by any person or group for the purpose of opposing a solicitation subject to this regulation by any other person or group with respect to the election or removal of directors at any annual or special meeting of stockholders.

7.10(2) *Participant or participant in a solicitation.*

a. For purposes of this rule the term "participant" and "participant in a solicitation" include: (1) The insurer; (2) any director of the insurer, and any nominee for whose election as a director proxies are solicited; (3) any other person, acting alone or with one or more other persons, committees or groups, in organizing, directing or financing the solicitation.

b. For the purposes of this rule the term "participant" and "participant in a solicitation" do not include: (1) A bank, broker or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of stock and who is not otherwise a participant; (2) any person or organization retained or employed by a participant to solicit stockholders or any person who merely transmits proxy-soliciting material or performs ministerial or clerical duties; (3) any person employed in the capacity of attorney, accountant or advertising, public relations or financial adviser, and whose activities are limited to the performance of the person's duties in the course of such employment; (4) any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or (5) any officer or director of, or any person regularly employed by any other participant, if such officer, director, or employee is not otherwise a participant.

7.10(3) *Filing of information required by Schedule B.*

a. No solicitation subject to this rule shall be made by any person other than the management of an insurer unless at least five business days prior thereto, or such shorter period as the commissioner may authorize upon a showing of good cause therefor, there has been filed, with the commissioner by or on behalf of each participant in such solicitation a statement in duplicate containing the information specified by Schedule B and a copy of any material proposed to be distributed to stockholders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to stockholders should be deferred until the commissioner's comments have been received and complied with.

b. Within five business days after a solicitation subject to this rule is made by the management of an insurer, or such longer period as the commissioner may authorize upon a showing of good cause therefor, there shall be filed with the commissioner by or on behalf of each participant in such solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by Schedule B.

c. If any solicitation on behalf of a management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this rule in opposition thereto, a statement in duplicate containing the information specified in Schedule B shall be filed with the commissioner by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

d. If, subsequent to the filing of the statements required by paragraphs *"a,"* *"b"* and *"c"* of this subrule, additional persons become participants in a solicitation subject to this rule, there shall be filed with the commissioner by or on behalf of each such person, a statement in duplicate containing the information specified by Schedule B, within three business days after such person becomes a participant, or such longer period as the commissioner may authorize upon a showing of good cause therefor.

e. If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the commissioner.

f. Each statement and amendment thereto filed pursuant to this paragraph shall be part of the public files of the commissioner.

7.10(4) *Solicitations prior to furnishing required written proxy statement.* Notwithstanding the provisions of 7.5(1), a solicitation subject to this rule may be made prior to furnishing stockholders a written proxy statement containing the information specified in Schedule A with respect to such solicitation, provided that:

a. The statements required by 7.10(3) hereof are filed by or on behalf of each participant in such solicitation.

b. No form of proxy is furnished to stockholders prior to the time the written proxy statement required by 7.5(1) is furnished to such persons. Provided, however, that this paragraph *"b"* shall not apply where a proxy statement then meeting the requirements of Schedule A has been furnished to stockholders.

c. At least the information specified in paragraphs *"b"* and *"c"* of the statements required by 7.10(3) hereof to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to stockholders in connection with the solicitation.

d. A written proxy statement containing the information specified in Schedule A with respect to a solicitation is sent or given stockholders at the earliest practicable date.

7.10(5) *Solicitations prior to furnishing required written proxy statement—Filing requirements.* Two copies of any soliciting material proposed to be sent or given to stockholders prior to the furnishing of the written proxy statement required by 7.5(1) shall be filed with the commissioner in preliminary form at least five business days prior to the date definitive copies of such material are first sent or given to such persons, or shorter period as the commissioner may authorize upon a showing of good cause therefor.

7.10(6) *Application of this section to report.* Notwithstanding the provisions of 7.5(2) and 7.5(3), two copies of any portion of the report referred to in 7.5(2) which comments upon or refers to any solicitation subject to this rule, or any participant in any such solicitation, other than the solicitation by the management, shall be filed with the commissioner, as proxy material subject to this regulation. Such portion of the report shall be filed with the commissioner, in preliminary form, at least five business days prior to the date copies of the report are first sent or given to stockholders.

These rules are intended to implement Iowa Code chapter 523.

SCHEDULE A

INFORMATION REQUIRED IN PROXY STATEMENT

Item 1. Revocability of proxy. State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

Item 2. Dissenters' rights of appraisal. Outline briefly the rights of appraisal or similar rights of dissenting stockholders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such stockholders in order to perfect their rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

Item 3. Persons making solicitations not subject to 7.10(523).

a. If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he tends to oppose.

b. If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom and on whose behalf it is made and the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

c. If the solicitation is to be made by specially engaged employees or paid solicitors, state (1) the material features of any contract or arrangement for such solicitation and identify the parties, and (2) the cost or anticipated cost thereof.

Item 4. Interest of certain persons in matters to be acted upon. Describe briefly any substantial interest, direct or indirect, by stockholdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

Item 5. Stocks and principal stockholders.

a. State, as to each class of voting stock of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

b. Give the date as of which the record list of stockholders entitled to vote at the meeting will be determined. If the right to vote is not limited to stockholders of record on that date, indicate the conditions under which other stockholders may be entitled to vote.

c. If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights, make a statement that they have such rights and state briefly the conditions precedent to the exercise thereof.

Item 6. Nominees and directors. If action is to be taken with respect to the election of directors furnish the following information in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

a. Name each person, state expiration of term of office or the term of office for which the person is a nominee will expire, and all other positions and office with the insurer presently held by that person, and indicate which persons are nominees for election as directors at the meeting.

b. State the nominee's present principal occupation or employment and give the name and principal business of any corporation or other organization in which employment is carried on. Furnish similar information as to all of the nominee's principal occupations or employments during the last five years, unless the nominee is now a director and was elected to the present term of office by a vote of stockholders at a meeting for which proxies were solicited under this regulation.

c. If the nominee is or has previously been a director of the insurer, state the period or periods during which the nominee has served.

d. State, as of the most recent practicable date, the approximate amount of each class of stock of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by the director. If the director is not the beneficial owner of any such stocks make a statement to that effect.

Item 7. Remuneration and other transactions with management and others. Furnish the information reported or required in Item One of Schedule SIS under the heading "Information Regarding Management and Directors" if action is to be taken with respect to *(a)* the election of directors, *(b)* any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate, *(c)* any pension or retirement plan in which any such person will participate, or *(d)* the granting or extension to any such person of any options, warrants or rights to purchase any stocks, other than warrants or rights issued to stockholders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than the management, information shall be furnished only as to Item 1-A of the aforesaid heading of Schedule SIS.

Item 8. Bonus, profit sharing and other remuneration plans. If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan, of the insurer, furnish the following information:

a. A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

b. The amounts which would have been distributable under the plan during the last calendar year to (1) each person named in item 7 of this schedule, (2) directors and officers as a group, and (3) all other employees as a group, if the plan had been in effect.

c. If the plan to be acted upon may be amended (other than by a vote of the stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph *"b"* of this item, the nature of such amendments should be specified.

Item 9. Pension and retirement plans. If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

a. A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

b. State (1) the approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period; (2) the estimated annual payment to be made with respect to current services; and (3) the amount of such annual payments to be made for the benefit of each person named in item 7 of this schedule, directors and officers as a group, and employees as a group.

c. If the plan to be acted upon may be amended (other than by a vote of stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph "*b*"(3) of this item, the nature of such amendments should be specified.

Item 10. Options, warrants, or rights. If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase stock of the insurer or any subsidiary or affiliate, other than warrants issued to all stockholders on a pro rata basis, furnish the following information:

a. The title and amount of stock called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the stock called for or to be called for by the warrants, as of the latest practicable date.

b. If known, state separately the amount of stock called for or to be called for by warrants received or to be received by the following persons, naming each such person: (1) Each person named in item 7 of this schedule, and (2) each other person who will be entitled to acquire 5 percent or more of the stock called for or to be called for by such warrants.

c. If known, state also the total amount of stock called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

Item 11. Authorization or issuance of stock.

a. If action is to be taken with respect to the authorization or issuance of any stock of the insurer furnish the title, amount and description of the stock to be authorized or issued.

b. If the shares of stock are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

c. If the shares of stock to be authorized or issued are other than additional shares of common stock of a class outstanding, the commissioner may require financial statements comparable to those contained in the annual report.

Item 12. Mergers, consolidations, acquisitions and similar matters.

a. If action is taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

(1) The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting stockholders in order to perfect such rights.

(2) The material features of the plan or agreement.

(3) The business done by the company to be acquired or whose assets are being acquired.

(4) If available, the high and low sales prices for each quarterly period within two years.

(5) The percentage of outstanding shares which must approve the transaction before it is consummated.

b. For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

(1) A comparative balance sheet as of the close of the last two fiscal years.

(2) A comparative statement of operating income and expenses for each of the last two fiscal years and, as a continuation of each statement, a statement of earnings per share after related taxes and cash dividends paid per share.

(3) A pro forma combined balance sheet and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

Item 13. Restatement of accounts. If action is to be taken with respect to the restatement of any asset, capital, or surplus of the insurer, furnish the following information:

a. State the nature of the restatement and the date as of which it is to be effective.

b. Outline briefly the reasons for the restatement and for the selection of the particular effective date.

c. State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

Item 14. Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of stockholders, state the nature of such matter, the reason for submitting it to a vote of stockholders and what action is intended to be taken by the management in the event of a negative vote on the matter by the stockholders.

Item 15. Amendment of charter, bylaws or other documents. If action is to be taken with respect to any amendment of the insurer's charter, bylaws or other documents as to which information is not required above, state briefly the reasons for and general effect of such amendment and the vote needed for its approval.

SCHEDULE B
INFORMATION TO BE INCLUDED IN STATEMENTS FILED BY OR ON BEHALF OF A PARTICIPANT (OTHER THAN THE INSURER) IN A PROXY SOLICITATION IN AN ELECTION CONTEST

Item 1. Insurer. State the name and address of the insurer.

Item 2. Identity and background.

a. State the following:

(1) Your name and business address.

(2) Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

b. State the following:

(1) Your residence address.

(2) Information as to all material occupations, positions, offices or employments during the last ten years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

c. State whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the past ten years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

d. State whether or not, during the past ten years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this subitem need not be included in the proxy statement or other proxy-soliciting material.

Item 3. Interest in stock of the insurer.

a. State the amount of each class of stock of the insurer which you own beneficially, directly or indirectly.

b. State the amount of each class of stock of the insurer which you own of record but not beneficially.

c. State with respect to the stock specified in *"a"* and *"b"* the amounts acquired within the past two years, the dates of acquisition and the amounts acquired on each date.

d. If any part of the purchase price or market value of any of the stock specified in paragraph "*c*" is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such stock, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction, and state the names of the parties.

e. State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any stock of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

f. State the amount of stock of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

g. State the amount of each class of stock of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly or indirectly.

Item 4. Further matters.

a. Describe the time and circumstances under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

b. Describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

c. State whether or not you or any of your associates have any arrangement or understanding with any person:

(1) With respect to any future employment by the insurer or its subsidiaries or affiliates; or

(2) With respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party.

If so, describe such arrangement or understanding and state the names of the parties thereto.

Item 5. Signature. The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

Date	(Signature of participant or authorized representative)

POLICYHOLDER PROXY SOLICITATION

191—7.11(523) Application. These rules are applicable to all domestic mutual insurance companies.

191—7.12(523) Conditions—revocation. No proxy shall be valid unless signed and executed within two months prior to such meeting or election for which said proxy was given, and such proxy shall be limited to 30 days subsequent to the date of such meeting or election, and may be revoked at any time by the policyholder who executed the said proxy.

191—7.13(523) Filing proxy. All proxies shall be filed with the company at least one day prior to any meeting or election at which they are to be used.

191—7.14(523) Solicitation by agents—use of funds. Soliciting of proxies by an agent of a company either for personal use, or for the use of officers of the company or for any other person or persons, is forbidden. Company funds shall not be expended in procuring proxies.

These rules are intended to implement Iowa Code chapter 523.

[Filed 4/15/66]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

CHAPTER 8
BENEVOLENT ASSOCIATIONS

[Appeared as ch 7, 1973 IDR]
[Prior to 10/22/86, Insurance Department[510]]

191—8.1 and **8.2** Reserved.

191—8.3(512A) Organization. Before any new benevolent association shall form or operate in this state, it shall first file with the commissioner for examination and approval one copy of its general plan of organization and operation, an original and two copies of its articles of incorporation, an original and one copy of any bylaws, and two copies of its certificate of membership with application blank. All fees for examination and filing in the office of the commissioner and the secretary of state as prescribed by law must accompany the association's submission.

8.3(1) The plan of organization and operation must set forth in detail any and all fees, dues and assessments to be made against the membership, the intended size and grouping of the membership, the method of member enrollment and procedure for replacement of deceased or left members, the establishment of any reserves or surplus funds, and the intended name and business address of the association. The plan shall also contain a biographical sketch of all organizers and officers and comply with the laws and regulations governing benevolent associations.

8.3(2) If an association is organized or becomes organized under Iowa Code chapter 504A for the purpose of selling or offering for sale stock to the public of this state such offer must be fully disclosed in the plan of organization and if such offer is exempt from registration the specific exemption must be set forth in the plan.

8.3(3) Reserved.

8.3(4) Except where a public stock offer is made, the plan of operation for associations existing prior to the adoption of this regulation may be contained in its bylaws, however, such plan shall be in accordance with the laws and regulations pertaining to such associations.

191—8.4(512A) Membership. Each association shall have one or more groups or units consisting of not more than 1250 members per group or unit who may make voluntary contributions to the association for distribution to the beneficiary of a deceased member or to the members as contributions toward expenses incurred by accident or sickness.

8.4(1) If membership in the association is conditioned upon the payment of benefit assessments levied against the members, such loss or cancellation of membership shall take place only if a member, after being notified by mail of such assessment, has failed to remit a contribution within 30 days from the date of mailing of the benefit assessment notice. The association may thereafter serve notice of cancellation of membership which shall provide that if all delinquencies are not paid within 10 days after mailing of such notice, all benefits of membership shall be fully terminated.

8.4(2) Rescinded, effective April 20, 1983.

191—8.5(512A) Fees, dues and assessments. Benevolent associations may make charges against the membership in the form of benefit assessments, enrollment fees or dues and operational expense fees.

8.5(1) An enrollment fee or dues to cover initial expenses may be charged but such fees or dues shall not exceed $10 per enrollee membership. If two or more enrollees are in one family, the enrollment fee shall not exceed $8 for each person, provided that the family unit enrolls at the same time.

8.5(2) A benefit assessment may be made against the group or unit membership to cover each valid claim presented by a member or the named beneficiary of a deceased member of that unit or group. The benefit portion of the assessment shall not exceed the maximum benefit payable as stated upon the certificate of membership by more than 20 percent of the maximum benefit payable to the claiming member or beneficiary of a member.

8.5(3) In addition to the benefit contribution an expense fee may be added as a separate item to each assessment or as a separate periodical assessment, provided the expense portion of any assessment represents actual costs directly related to the collection and payment of the certificate benefit, and further provided that said fee is identified as an expense charge. Reasonable directors' fees and salaries of officers shall be considered as expenses to the association.

8.5(4) Any assessment levied against the members of a group or unit, other than any reasonable corporate dividends or undivided profits as declared by the board of directors, shall be considered as trust funds belonging to the members of the group and shall not become the property of the association itself, except for that portion of the assessment or contribution added as a separate item for expenses in the collection and distribution of such fund.

191—8.6(512A) Reserve fund. Any moneys remaining after the payment of a benefit by the association, except the expense contribution and any reasonable corporate dividends or undivided profits, shall be maintained as a reserve fund to be used only for the benefit of the members of the specific group or unit from which it was collected. Such reserve funds shall be used periodically as determined by the board of directors to pay benefits to a claiming member or the beneficiary of a member without making an assessment against the membership of the group or unit.

Any association in existence before January 1, 1967, having presently in use an equally equitable plan for the periodic distribution of the reserve funds, can continue to use such plan provided it is fully disclosed in writing to the commissioner and has been approved by the commissioner for use.

191—8.7(512A) Certificates. In addition to the requirements of Iowa Code section 512A.7 as they concern the membership certificates, said certificates shall also contain sufficient information to inform a member or a member's beneficiary on the proper procedure in the filing of a claim, including any limitations or exclusions affecting the claim.

191—8.8(512A) Beneficiaries. In the application for membership, the applicant may designate a beneficiary or beneficiaries. If no beneficiary is named or the named beneficiary or beneficiaries do not survive the member, the estate shall become the beneficiary.

Each association shall have forms to provide for the change of beneficiary in the event a member wishes to change or add a beneficiary.

191—8.9(512A) Mergers. Should the membership of a group or unit fall below 50 percent of its established size as set forth in the plan of operation, such group or unit shall be merged into another existing group in the association and any funds of the depleted membership group shall become the reserve funds of the group into which it is merged.

If the entire membership of an association falls below 60 percent of its established size as described in its plan of operation, such association must make a bona fide attempt to merge with another such association to protect the interests of the remaining members. Any reserve funds of the merging association shall become the reserve funds of the surviving merged association. If merger attempts are unsuccessful, the association must present a plan of reorganization to the commissioner for approval.

191—8.10(512A) Directors and officers. Each benevolent association shall have at least three persons on its board of directors at all times and shall have more than one person act as corporate officer.

191—8.11(512A) Stockholders. If any benevolent association issues stock, such association shall have its stock owned by more than one stockholder.

191—8.12(512A) Bookkeeping and accounts. Each benevolent association shall maintain a set of books and records in accordance with normally accepted accounting procedures. Such books and records shall be used to supply the information requested in the annual statement provided each year by the insurance commissioner.

These rules are intended to implement Iowa Code chapter 512A.

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CHAPTER 9
REPORTING REQUIREMENTS ON LICENSES

[Prior to 10/22/86, Insurance Department[510]]
Rescinded IAB 10/2/02, effective 11/6/02

CHAPTER 2
ORGANIZATION AND ADMINISTRATION
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—2.1(79GA,ch55) Description.

2.1(1) The purpose of the accountancy examining board is to administer and enforce the provisions of 2001 Iowa Acts, chapter 55, (Accountancy Act of 2001) with regard to the practice of accountancy in the state of Iowa including the examining of candidates; issuing of certificates and licenses; granting of permits to practice accountancy; investigating violations and infractions of the accountancy law; disciplining certificate holders, licensees or permit holders; and imposing civil penalties against nonlicensees. To this end, the board has promulgated these rules to clarify the board's intent and procedures.

2.1(2) The primary mission of the board is to protect the public interest. All board rules shall be construed as fostering the guiding policies and principles described in 2001 Iowa Acts, chapter 55, section 2. The board and its licensees shall strive at all times to protect the public interest by promoting the reliability of information that is used for guidance in financial transactions or accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises.

2.1(3) All official communications, including submissions and requests, should be addressed to the board at 1918 S.E. Hulsizer, Ankeny, Iowa 52001.

193A—2.2(79GA,ch55) Administrative committees.

2.2(1) The board chair may appoint administrative committees of not less than two nor more than five members who shall be members of the board for the purpose of making recommendations on matters specified by the board.

2.2(2) An administrative committee may be appointed to make recommendations to the board concerning the board's responsibilities as to examinations, registrations and licensing, continuing education, professional conduct, discipline and other board matters.

193A—2.3(79GA,ch55) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting the chair and vice-chair shall be elected to serve until their successors are elected. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.

193A—2.4(79GA,ch55) Other meetings. In addition to the annual meeting and subsequent meetings, the time and place of which may be fixed by resolution of the board, a meeting may be called by the chairperson of the board or by joint call of a majority of its members.

193A—2.5(79GA,ch55) Board administrator's duties.

2.5(1) The board administrator shall ensure that complete records are kept of all applications for examination and registration, all certificates, licenses and permits granted, and all necessary information in regard thereto. The board administrator is the lawful custodian of the board records.

2.5(2) The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations; and the board administrator shall submit to the board any questionable application.

2.5(3) The board administrator shall keep accurate minutes of the meetings of the board. The board administrator shall keep a list of the names of persons issued certificates as certified public accountants, persons issued licenses as licensed public accountants, and all firms issued permits to practice.

2.5(4) The board administrator shall perform such additional administrative duties as are requested by the board or otherwise authorized by this chapter or the rules of the professional licensing and regulation division.

193A—2.6(79GA,ch55) Disclosure of confidential information.

2.6(1) 2001 Iowa Acts, chapter 55, section 4, prohibits members of the board from disclosing a final examination score to persons other than the one who took the examination. For the purposes of this rule, "final score" includes information as to whether the candidate "passed," "failed," or "conditioned" the examination. Persons who take the examination may consent to the publication of their names on a list of passing candidates.

2.6(2) Other information relating to the examination results, including the specific grades by subject matter, shall be given only to the person who took the examination, except that the board may:

a. Disclose the specific grades by subject matter to the regulatory authority of any other state or foreign country in connection with the candidate's application for a reciprocal certificate or license from the other state or foreign country, but only if requested by the applicant.

b. Disclose the specific grades by subject matter to educational institutions, professional organizations, or others who have a legitimate interest in the information, provided the names of the persons taking the examination are not provided in conjunction with the scores.

193A—2.7(17A,21,22,272C,79GA,ch55) Uniform division rules. Administrative and procedural rules which are common to all boards in the division can be found in the rules of the professional licensing and regulation division.

2.7(1) Persons seeking waivers or variances from board rules should review the uniform division rules at 193—Chapter 5.

2.7(2) Rules outlining procedures regarding investigatory subpoenas can be found at 193—Chapter 6.

2.7(3) Rules regarding contested cases appear at 193—Chapter 7.

2.7(4) Rules regarding denial of issuance or renewal of license for nonpayment of child support or student loan appear at 193—Chapter 8.

2.7(5) Rules outlining procedures for petitions for rule making are at 193—Chapter 9.

2.7(6) Rules regarding procedures to be followed when seeking declaratory orders can be found at 193—Chapter 10.

2.7(7) Rules regarding sales of goods and services by board or commission members appear at 193—Chapter 11.

2.7(8) Rules regarding impaired licensee review committees appear at 193—Chapter 12.

2.7(9) Rules covering public records and fair information practices appear at 193—Chapter 13.

These rules are intended to implement Iowa Code chapters 17A, 21, 22, and 272C and 2001 Iowa Acts, chapter 55.

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CHAPTER 9
SUBSTANTIAL EQUIVALENCY

193A—9.1(79GA,ch55) Iowa CPA certificate required. Except as provided in 2001 Iowa Acts, chapter 55, section 7(1) or 13(11), a person who holds a certificate or license to practice as a CPA in another state or a substantially equivalent designation from a foreign jurisdiction who plans to practice public accounting as a CPA in Iowa or for Iowa clients or who otherwise desires to establish the person's principal place of business as a CPA in Iowa must first apply to the board for an Iowa CPA certificate.

193A—9.2(79GA,ch55) Application forms. Application forms may be obtained from the board office or on the board Web site. An applicant shall attest that all information provided on the form is true and accurate. An application may be denied based on a false statement of material fact. A nonrefundable fee shall be charged each applicant as provided in 193A—Chapter 12.

193A—9.3(79GA,ch55) Background and character.

9.3(1) An applicant for a CPA certificate under this chapter shall disclose on the application all background and character information requested by the board including, but not limited to:

a. All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, or a substantially equivalent designation from a foreign country;

b. Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice, or voluntary surrender of a CPA certificate, license or permit to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;

c. Any other form of discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation;

d. The conviction of any crime; and

e. The revocation of a professional license of any kind in this or any other jurisdiction.

9.3(2) The board may deny an application based on prior discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation, or on any of the grounds listed in 193A—subrule 3.1(2).

193A—9.4(79GA,ch55) Verification of state licensure. An applicant holding a CPA certificate or license from another state or states shall submit verification that the applicant's CPA certificate or license is valid and in good standing in the state in which the applicant's principal place of business is located. An applicant applying for a CPA certificate under the substantial equivalency provisions of 2001 Iowa Acts, chapter 55, section 19(1)(a), and paragraph 9.5(1)*"a"* may attach a letter of good standing to the application. Such letter of good standing shall be prepared by the state in which the applicant's principal place of business is located and shall be dated within six months of the date of the application. To expedite the application process, the board will accept verification from another state's board by facsimile or E-mail. The board reserves the right to request an original verification document directly from another state board.

193A—9.5(79GA,ch55) Qualifications for a CPA certificate.

9.5(1) A person who holds in good standing a valid CPA certificate or license from another state shall be deemed qualified for an Iowa CPA certificate if the person satisfies one of the following three conditions:

a. Substantially equivalent state. The licensing standards on education, examination and experience of the state which issued the applicant's CPA certificate or license were, at the time of licensure, comparable or superior to the education, examination and experience requirements of 2001 Iowa Acts, chapter 55, in effect at the time the application is filed in Iowa. The board may accept the determination of substantial equivalency made by the National Association of State Boards of Accountancy or may make an independent determination of substantial equivalency.

b. Individual substantial equivalency. The applicant's individual qualifications on education, examination and experience are comparable or superior to the education, examination and experience requirements of 2001 Iowa Acts, chapter 55, in effect at the time the application is filed in Iowa.

c. "Four-in-ten rule." The applicant satisfies all of the following:

(1) The applicant passed the examination required for issuance of the applicant's certificate or license with grades that would have been passing grades at the time in this state.

(2) The applicant has had at least four years of experience within the ten years immediately preceding the application which occurred after the applicant passed the examination upon which the CPA certificate or license was based and which in the board's opinion is substantially equivalent to that required by 2001 Iowa Acts, chapter 55, section 5(12).

(3) If the applicant's CPA certificate or license was issued more than four years prior to the filing of the application in this state, the applicant has fulfilled the continuing professional education requirements described in 2001 Iowa Acts, chapter 55, section 6(3), and 193A—Chapter 10.

9.5(2) A person who holds in good standing a certificate, license or designation from a foreign authority that is substantially equivalent to an Iowa CPA certificate shall be deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of 2001 Iowa Acts, chapter 55, section 19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the requirements for that certificate, license or foreign designation are comparable or superior to those required for a CPA certificate in this state. Original verification from the foreign authority which issued the certificate, license or designation shall be required to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the board shall require that the applicant pass the uniform certified public accountant examination designed to test the applicant's knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant or Australian Certified Practicing Accountant, the applicant may be required to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

9.5(3) An applicant seeking an Iowa CPA certificate based on the provisions of 9.5(1)*"b,"* 9.5(1)*"c"* or 9.5(2) shall submit such supporting information on education, examination or experience as the board deems reasonable to determine whether the applicant qualifies for licensure in Iowa.

193A—9.6(79GA,ch55) Continuing requirements. A person issued a CPA certificate under this chapter is subject to all laws and rules governing persons holding CPA certificates issued in this state including, without limitation, those concerning continuing education, peer review, and notification of crimes and professional discipline. However, a person issued a CPA certificate under this chapter who maintains the principal place of business in a different state and who maintains in good standing a valid CPA certificate or license in that state shall be deemed to have satisfied the continuing education and peer review requirements described in 193A—Chapters 10 and 11 if the person satisfies similar requirements in the state in which the principal place of business is located.

193A—9.7(79GA,ch55) Expedited application processing. A person applying for a CPA certificate under the substantial equivalency provisions of 2001 Iowa Acts, chapter 55, section 19(1)(a), and paragraph 9.5(1)*"a"* often desires expedited application processing to facilitate cross-border practice. Applications by such persons are especially suitable for rapid processing given the substantially equivalent standards previously enforced in another state. Unless such application reveals grounds to deny the application under subrule 9.3(2), the board is otherwise aware of such grounds, or the application is unaccompanied by the proper fee, the board's administrator shall approve an application which qualifies under 2001 Iowa Acts, chapter 55, section 19(1)(a), and paragraph 9.5(1)*"a"* as rapidly as feasible and shall deem the effective date of approval to practice in Iowa to be the date the board received the completed application with timely letter of good standing in a substantially equivalent state.

These rules are intended to implement 2001 Iowa Acts, chapter 55, section 19.

[Filed 4/12/02, Notice 3/6/02—published 5/1/02, effective 7/1/02]
[Filed 9/13/02, Notice 8/7/02—published 10/2/02, effective 11/6/02]

b. In addition, the CPA or LPA shall furnish to a client, after the original issuance of the document in question to the client or former client, the following items, provided all fees due to the CPA or LPA are paid:

(1) A copy of the tax return of the client;

(2) A copy of any report, or other document, issued by the CPA or LPA to or for such client; and

(3) A copy of the working papers of the CPA or LPA to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

193A—13.6(79GA,ch55) Other responsibilities and practices.

13.6(1) *Acts discreditable.* A CPA or LPA shall not commit any act that reflects adversely on the CPA's or LPA's fitness to engage in the practice of public accountancy. The board may consider discipline by any other agency or jurisdiction when determining probable cause to take action against a CPA or LPA for acts discreditable.

13.6(2) *Advertising.* A CPA or LPA shall not use or participate in the use of any form of public communication having reference to professional services that contains a false, fraudulent, misleading, deceptive or unfair statement or claim. A false, fraudulent, misleading, deceptive or unfair statement or claim includes but is not limited to a statement or claim which:

a. Contains a misrepresentation of fact; or

b. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or

c. Contains any testimonial or laudatory statement, or other statement or implication that the CPA's or LPA's professional services are of exceptional quality; or

d. Is intended to likely create false or unjustified expectations of favorable results; or

e. Implies educational or professional attainments or licensing recognition not supported in fact; or

f. States or implies that the CPA or LPA has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case; or

g. Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or

h. Contains other representations or applications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

13.6(3) *Solicitation.* A CPA or LPA shall not by any direct personal communication solicit an engagement to perform professional services:

a. If the communication would violate subrule 13.6(2) if it were a public communication; or

b. By the use of coercion, duress, compulsion, intimidation, threats, overreaching, or harassing conduct; or

c. If the solicitation communication contains proposals which would be in violation of rule 193A—13.3(79GA,ch55) or 193A—13.4(79GA,ch55).

13.6(4) *Acting through others.* A CPA or LPA shall not permit others to carry out on the CPA's or LPA's behalf, either with or without compensation, acts which, if carried out by the CPA or LPA, would violate the rules of professional conduct.

13.6(5) *Misleading firm names.* A firm name is misleading within the meaning of 2001 Iowa Acts, chapter 55, section 13, if, among other things:

a. The firm name implies the existence of a corporation when the firm is not a corporation.

b. The firm name implies the existence of a partnership when there is not a partnership, e.g., "Smith & Jones, CPAs" or "Smith and Jones, LPAs."

c. The CPA firm name includes the name of a person who is not a CPA if the title "CPAs" or "Certified Public Accountants" is included in the firm name.

d. The LPA firm name includes the name of a person who is not an LPA if the title "LPAs" or "Licensed Public Accountants" is included in the firm name.

e. The firm name contains any wording that would be a violation of subrule 13.6(2).

13.6(6) *Communications.* A CPA or LPA shall, when requested, respond to communications from the board within 30 days of the mailing of such communications by certified mail.

These rules are intended to implement Iowa Code chapter 272C and 2001 Iowa Acts, chapter 55.

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15.8(2) *Committee screening of complaints.* Upon the referral of a complaint from the board's administrator or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that it be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

15.8(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193A—15.9(17A,272C,79GA,ch55) or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

a. Request further investigation.

b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation of closure.

c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full board with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.

d. Determine there is probable cause to believe a disciplinary violation has occurred, and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

15.8(4) *Subpoena authority.* Pursuant to Iowa Code subsections 17A.13(1) and 272C.6(3) and 2001 Iowa Acts, chapter 55, section 11(1), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

193A—15.9(17A,272C,79GA,ch55) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

15.9(1) An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A licensee is not required to attend an informal discussion. Because disciplinary investigations are confidential, the licensee may not bring other persons to an informal discussion, but licensees may be represented by legal counsel. Where an allegation is made against a firm, the firm may be represented by a managing partner, member or other firm representative.

15.9(2) Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a licensee who desires to attend an informal discussion must therefore waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A licensee would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

15.9(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

15.9(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges shall be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193A—15.10(17A,272C,79GA,ch55) Closing complaint files.

15.10(1) *Grounds for closing.* Upon the recommendation of the administrator pursuant to subrule 15.5(4), the recommendation of the disciplinary committee pursuant to rule 193A—15.8(17A,272C,79GA,ch55), or on its own motion, the board may close a complaint file, with or without prior investigation. Given the broad scope of matters members of the public may complain about, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

a. The complaint alleges matters outside the board's jurisdiction.

b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the board.

c. The complaint is frivolous or trivial.

d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.

e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.

f. Resources are unavailable or better directed to other complaints or board initiatives in light of the board's overall budget and mission.

g. Other extenuating factors which weigh against the imposition of public discipline consistent with the legislative policies, goals, and standards set forth in 2001 Iowa Acts, chapter 55, section 2.

15.10(2) *Closing orders.* The board's administrator may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information.

If entered, a closing order will be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17.3(1)(d). A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

15.10(3) *Cautionary letters.* The board may issue a confidential letter of caution to a licensee when a complaint file is closed which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

15.10(4) *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

These rules are intended to implement Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55.

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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

[Prior to 6/1/88, see Engineering and Land Surveying Examiners, Board of [390]]
[Engineering and Land Surveying Examining Board[193C] created by 1986 Iowa Acts, Ch 1245, §716, within the Professional Licensing and Regulation Division[193] of the Commerce Department[181] "umbrella"]

CHAPTER 11
MINIMUM STANDARDS FOR
PROPERTY SURVEYS

CHAPTER 12
MINIMUM STANDARDS FOR U.S. PUBLIC
LAND SURVEY CORNER CERTIFICATES

CHAPTER 13
CIVIL PENALTIES FOR
UNLICENSED PRACTICE

"Professional engineer" means a person, who, by reason of the person's knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education or practical experience, is qualified to engage in the practice of engineering.

193C—1.3(542B) Declaratory orders. The board's rules regarding declaratory orders can be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 10.

193C—1.4(542B) Waivers and variances.

1.4(1) The board's rules regarding waivers and variances can be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 5.

1.4(2) Interim rulings. The board chairperson, or vice chairperson if the chairperson is not available, may rule on a petition for waiver or variance when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

a. The executive secretary shall, upon receipt of a petition meeting all applicable criteria established in 193 IAC 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

b. The chairperson or vice chairperson shall reserve the right to hold an electronic meeting of the board when:

(1) Board precedent does not clearly resolve the request and the input of the board is deemed required; and

(2) The practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

c. A waiver report shall be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

d. This subrule on interim rulings does not apply if the waiver or variance was filed in a contested case.

These rules are intended to implement Iowa Code sections 17A.9A, 542B.2 and 542B.3.

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EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who were licensed between July 1, 1988, and June 30, 1991		
If the applicant's educational level was:	The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
College or junior college (mathematics or physical sciences)		
Two years	6	4
Three years	5	4
Four-year BS degree	3	4
Four-year BS degree plus MS degree* in engineering	0	4
All engineering technology programs and architecture		
Two years	6	4
Three years	5	4
Four-year degree, nonaccredited technology or BA in architecture	3	4
Four-year degree, accredited technology	2	4
Four-year degree or more, bachelor of architecture	2	4
Four-year BS degree, technology or architecture plus master's degree* in engineering	0	4
Engineering program, nonaccredited		
Two years	6	4
Three years	3	4
Four-year BS degree	1	4
Four-year BS degree plus MS degree in engineering	0	4
Engineering program, accredited		
Two years	6	4
Three years	3	4
Four-year BS degree	0	4

*For purposes of this subrule, an applicant's master's degree in engineering must be from an institution in the United States of America with an accredited bachelor's degree in the same curriculum, and the master's degree candidate must be required to fulfill the requirements for the bachelor's degree in the same area of specialization.

193C—4.3(542B) Requirements for a licensee requesting additional examination. A person holding an active certificate of licensure to engage in the practice of engineering issued by the state of Iowa may, upon written request and payment of the application and examination fees, take additional examinations in other branches of engineering without submitting a formal application to the board as described for initial or comity licensure.

These rules are intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

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281—67.21(279) Refusal to issue decision on request. The director may refuse to issue a decision on a Request for Reconsideration upon good cause. Good cause includes, but is not limited to, the following reasons:

1. The request was untimely;
2. The requester lacks standing to seek reconsideration;
3. The request is not based on any of the available grounds in rule 67.18(279), or is merely frivolous or vexatious;
4. The requester failed to provide documentation, evidence or argument in support of its request;
5. The request is moot due to negotiation and settlement of the issue(s).

281—67.22(279) Granting a Request for Reconsideration. If the director grants a Request for Reconsideration, the council shall consider the grantee's application in accordance with the director's findings and decision.

These rules are intended to implement Iowa Code section 279.51.

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CHAPTER 68
CHARTER SCHOOLS

281—68.1(79GA,SF348) Purpose. The purpose of a charter school established pursuant to 2002 Iowa Acts, Senate File 348, and this chapter shall be to accomplish the following:

1. Improve student learning;
2. Increase learning opportunities for students;
3. Encourage the use of different and innovative methods of teaching;
4. Require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;
5. Establish new forms of accountability for schools; and
6. Create new professional opportunities for teachers and other educators, including the opportunity to be responsible for the learning program at the school site.

These rules provide the criteria and weighting for those criteria that the state board shall use to determine if an application will be selected as one of ten authorized pilot charter schools.

281—68.2(79GA,SF348) Conditional effectiveness. Pursuant to 2002 Iowa Acts, Senate File 348, section 16, these rules take effect upon such time as the department receives federal funds that are provided to the department under Pub. L. No. 107-110, the No Child Left Behind Act of 2002 (Title V, Part B), for the purposes of providing financial assistance for the planning, program design, and initial implementation of pilot charter schools.

281—68.3(79GA,SF348) Definitions.

"Department" means the Iowa department of education.

"Pilot charter school" means a new school designated by the state board and created within an existing attendance center, or a new school created by converting an existing attendance center to charter status.

"School board" means a board of directors regularly elected by the registered voters of a school district.

"State board" means the state board of education.

281—68.4(79GA,SF348) Application to a school board. Starting July 1, 2002, a school board shall begin accepting applications for the planning and operation of a charter school within the boundary lines of a school district. Prior to accepting applications, a school board shall adopt procedures, criteria and weighting for the criteria to determine approval or denial of an application. A school board may adopt the procedures, criteria and weighting for the criteria as established by these rules. In addition, an application that has been submitted and subsequent school board action on any application shall, at minimum, meet the provisions of 2002 Iowa Acts, Senate File 348.

281—68.5(79GA,SF348) Review process.

68.5(1) *Application to the department.* Upon approval of an application for the proposed establishment of a charter school, a school board shall submit to the department an application for approval to establish the charter school. The department shall appoint, at a minimum, seven individuals knowledgeable in student achievement and nontraditional learning environments to review each application. A reviewer shall not review any application in which the reviewer has an interest, direct or indirect.

68.5(2) *Ranking of applications.* Applications shall be ranked on a point system, and applications shall be recommended to the state board in rank order beginning with the application with the highest points. In the event that two or more applications tie, one or more additional reviewers shall review the applications until the tie is broken.

The maximum points for an application shall be 78. The maximum points for each criterion provided in 2002 Iowa Acts, Senate File 348, shall be as follows:

a. Overview. The maximum number of points that may be awarded for the description of the mission, purpose, innovation, and specialized focus of the charter school is 10.

b. Organization and structure. The maximum number of points that may be awarded is 22. The description of organization and structure shall include:

(1) The charter school governance and bylaws.

(2) The method for appointing or forming an advisory council for the charter school. The membership of an advisory council appointed or formed in accordance with this chapter shall not include more than one member of the school board. The advisory council shall, to the greatest extent possible, reflect the demographics of the student population to be served by the pilot charter school.

(3) The organization of the school in terms of ages of students or grades to be taught along with an estimate of the total enrollment of the school.

(4) The method for admission to the charter school. The admission policy shall support the purpose and specialized mission of the charter school.

(5) The number and qualifications of teachers and administrators to be employed.

(6) Procedures for teacher evaluation and professional development for teachers and administrators as required under 281—Chapter 12 and the Iowa teaching standards.

(7) A plan of operation to be implemented if the charter school revokes or fails to renew its contract.

c. Facilities support. The maximum number of points that may be awarded is 18. The description of facilities support shall include:

(1) The provision of school facilities.

(2) The financial plan for the operation of the school including, at a minimum, a listing of the support services the school district will provide, and the charter school's revenues, budgets, and expenditures.

(3) Assurance of the assumption of liability by the charter school.

(4) The types and amounts of insurance coverage to be obtained by the charter school.

(5) The means, costs, and plan for providing transportation for students attending the charter school.

d. Student achievement. The maximum number of points that may be awarded for the description of the school's student achievement strategies and measures is 25. The description shall include:

(1) Performance goals and objectives in addition to those required under Iowa Code section 256.7, subsection 21, and 281—Chapter 12, by which the school's student achievement shall be judged, the measures to be used to assess progress, and the current baseline status with respect to the goals.

(2) The educational program and curriculum, instructional methodology, and services to be offered to students.

(3) A statement indicating how the charter school will meet the purpose of a charter school as outlined in 2002 Iowa Acts, Senate File 348, section 1, subsection 3, and the minimum state and federal statutory requirements of a charter school as outlined in 2002 Iowa Acts, Senate File 348, section 4, subsection 2.

e. Waivers. The maximum number of points that may be awarded for the explanation of waiver conditions is 3. The explanation shall include:

(1) The specific statutes, administrative rules, and school board policies with which the charter school does not intend to comply.

(2) The anticipated impact of any requested waiver on students, student achievement, faculty and parents.

68.5(3) *State board.* The state board shall review the recommendations provided by the department. The state board shall by a majority vote approve or deny an application. The department shall notify applicants within 14 days of the state board's decision.

These rules are intended to implement 2002 Iowa Acts, Senate File 348.

[Filed 9/13/02, Notice 6/26/02—published 10/2/02, effective 11/6/02]

CHAPTER 69
WAIVER OF SCHOOL BREAKFAST PROGRAM REQUIREMENT

Rescinded IAB 8/21/02, effective 9/25/02

EDUCATIONAL EXAMINERS BOARD[282]

[Prior to 6/15/88, see Professional Teaching Practices Commission[640]]
[Prior to 5/16/90, see Professional Teaching Practices Commission[287]]

CHAPTER 18
CONVERSION INFORMATION

CHAPTER 19
COACHING AUTHORIZATION

CHAPTER 20
EVALUATOR LICENSE

CHAPTER 21
BEHIND-THE-WHEEL DRIVING INSTRUCTOR AUTHORIZATION

CHAPTER 22
PARAEDUCATOR CERTIFICATES

CHAPTER 14
ISSUANCE OF PRACTITIONER'S LICENSES AND ENDORSEMENTS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 70]
[Prior to 10/3/90, see Education Department[281] Ch 73]
[282—14.25 to 14.29 transferred from 281—84.18 to 84.22, IAB 1/9/91, effective 12/21/90]

282—14.1 to **14.100** Reserved.

RULES EFFECTIVE AUGUST 31, 2001

282—14.101(272) Applicants desiring Iowa licensure. Licenses are issued upon application filed on a form provided by the board of educational examiners.

14.101(1) Effective October 1, 2000, an initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant.

14.101(2) Effective October 1, 2000, an Iowa division of criminal investigation background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.

14.101(3) The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application, including certification from the applicant of completion of the Praxis II examination, if required; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check. The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check and the board's receipt of verification of completion of the Praxis II examination. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

282—14.102(272) Applicants from recognized Iowa institutions. An applicant for initial licensure who completes the teacher, administrator, or school service personnel preparation program from a recognized Iowa institution shall have the recommendation for the specific license and endorsement(s) or the specific endorsement(s) from the designated recommending official at the recognized education institution where the preparation was completed. A recognized Iowa institution is one which has its program of preparation approved by the state board of education according to standards established by said board, or an alternative program recognized by the state board of educational examiners.

282—14.103(272) Applicants from recognized non-Iowa institutions. An applicant for initial licensure who completes the teacher, administrator, or school service personnel preparation program from a recognized non-Iowa institution shall have the recommendation for the specific license and endorsement(s) or the specific endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed, provided all requirements for Iowa licensure have been met.

Applicants who hold a valid license from another state and whose preparation was completed through a nontraditional program, through an accumulation of credits from several institutions, shall file all transcripts with the practitioner preparation and licensure bureau for a determination of eligibility for licensure.

A recognized non-Iowa institution is one which is accredited by the regional accrediting agency for the territory in which the institution is located.

282—14.104(272) Applicants from foreign institutions. An applicant for initial licensure whose preparation was completed in a foreign institution will be required to have all records translated into English and then file these records with the board of educational examiners for a determination of eligibility for licensure.

282—14.105(272) Issue date on original license. A license is valid only from and after the date of issuance.

282—14.106(272) Adding endorsements to licenses. After the issuance of a teaching, administrative, or school service personnel license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement, as listed in 282—14.140(272) and 282—14.141(272), have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

In addition to the requirements listed in 282—14.140(272) and 282—14.141(272), applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area of the endorsement added.

Practitioners who are adding a secondary teaching endorsement and have not student taught on the secondary level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

Practitioners holding the K-6 endorsement in the content area of the 7-12 endorsement being added may satisfy the requirement for a teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the conditional license. The practitioner must obtain a two-year conditional license while practicing with the 7-12 endorsement.

14.106(1) To add an endorsement, the applicant must follow one of these options:

Option 1. Identify with a recognized Iowa teacher preparing institution, meet that institution's current requirements for the endorsement desired, and receive that institution's recommendation.

Option 2. Identify with a recognized Iowa teacher education institution and receive a statement that the applicant has completed the equivalent of the institution's approved program for the endorsement sought.

Option 3. Identify with a recognized teacher education institution and receive a statement that based on the institution's evaluation of the individual's preparation the applicant has completed all of the Iowa requirements for the endorsement sought.

14.106(2) Appeal. If an applicant cannot obtain a recommendation for an endorsement from an institution, and if the applicant can document that all of the Iowa requirements have been met, the applicant may apply for the endorsement by filing transcripts and supporting documentation for review. The application must be accompanied by a letter of rejection from an institution that offers the endorsement. Upon receipt of all materials, the staff of the board of educational examiners will review documents to determine if all Iowa requirements have been met.

282—14.107(272) Correcting licenses. If, at the time of the original issuance or renewal of a license, a person does not receive an endorsement for which the individual is eligible, a corrected license shall be issued. Also, a corrected license shall be issued if a person receives an endorsement for which the person is not eligible.

282—14.108(272) Duplicate licenses. Upon application and payment of the fee set out in subrule 14.121(3), duplicate licenses shall be issued.

282—14.109(272) Fraud in procurement or renewal of licenses. Fraud in procurement or renewal of a license or falsifying records for licensure purposes will constitute grounds for filing a complaint with the board of educational examiners.

282—14.110(272) Licenses. The following licenses will be issued effective August 31, 2001:

1. Initial.
2. Standard.
3. Master educator.
4. Professional administrator.
5. Conditional.
6. Substitute.
7. Area education agency administrator.
8. Alternative preparation.

282—14.111(272) Requirements for an initial license. An initial license valid for two years may be issued to an applicant who:

1. Has a baccalaureate degree from a regionally accredited institution.
2. Has completed a state-approved teacher education program which meets the requirements of the professional education core.
3. Has completed an approved human relations component.
4. Has completed the exceptional learner component.
5. Has completed the requirements for one of the basic teaching endorsements, the special education teaching endorsements, or the secondary level occupational endorsements.
6. Meets the recency requirement of 14.115"3."

Renewal requirements for this license are set out in 282—Chapter 17.

282—14.112(272) Requirements for a standard license. A standard license valid for five years may be issued to an applicant who:

1. Completes items "1" to "5" listed under 282—14.111(272).
2. Shows evidence of successful completion of a state-approved induction program or an approved alternative option or two years' successful teaching experience based on a local evaluation process.
3. Meets the recency requirement of 14.115"3."

Renewal requirements for this license are set out in 282—Chapter 17.

282—14.113(272) Requirements for a master educator's license. A master educator's license valid for five years may be issued to an applicant who:

1. Is the holder of or eligible for a standard license.
2. Verifies five years of successful teaching experience.
3. Completes one of the following options:

- Master's degree in a recognized endorsement area, or
- Master's degree in curriculum, effective teaching, or a similar degree program which has a focus on school curriculum or instruction.

Renewal requirements for this license are set out in 282—Chapter 17.

282—14.114(272) Requirements for a professional administrator's license. A professional administrator's license valid for five years may be issued to an applicant who:

1. Is the holder of or eligible for a standard license.
2. Has three years of teaching experience.
3. Has completed the requirements for an administrative endorsement.

Renewal requirements for this license are set out in 282—Chapter 17.

282—14.115(272) Requirements for a one-year conditional license. A nonrenewable conditional license valid for one year may be issued to an individual under any one of the following conditions:

1. *Professional core requirements.* The individual has not completed all of the required courses in the professional core, 14.123(4)*"a"* to *"j."*
2. *Human relations component.* The individual has not completed an approved human relations component.
3. *Recency.* The individual meets requirement(s) for a valid license, but has had fewer than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period. To obtain the desired license, the applicant must complete recent credit and, where recent credits are required, these credits shall be taken in professional education or in the applicant's endorsement area(s).
4. *Degree not granted until next regular commencement.* An applicant who meets the requirements for a license with the exception of the degree, but whose degree will not be granted until the next regular commencement, may be issued a one-year conditional license.
5. *Based on an expired Iowa certificate or license, exclusive of a conditional license.* The holder of an expired license, exclusive of a conditional license or a temporary certificate, shall be eligible to receive a conditional license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.
6. *Based on an administrative decision.* The bureau of practitioner preparation and licensure is authorized to issue a conditional license to applicants whose services are needed to fill positions in unique need circumstances.

282—14.116(272) Requirements for a two-year conditional license. A nonrenewable conditional license valid for two years may be issued to an individual under the following conditions: If a person is the holder of a valid license and is the holder of one or more endorsements, but is seeking to obtain some other endorsement, a two-year conditional license may be issued if requested by an employer and the individual seeking this endorsement has completed at least two-thirds of the requirements or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for that endorsement.

For the principal's endorsement, three years of teaching experience must have been met before application for the conditional license. For the superintendent's endorsement, three years of teaching experience and three years as a building principal or other PK-12 districtwide or intermediate agency experience are acceptable for becoming a superintendent, and must have been met before application for the conditional license.

A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

This license is not renewable.

282—14.117(272) Conditional special education license. Based on the amount of preparation needed to complete the requirements for the endorsement, a conditional special education license may be issued to an individual for a term of up to three years under the following conditions:

1. The individual is the holder of a valid license.
2. The individual has completed at least one-half of the credits necessary for a special education endorsement.
3. The employing school official makes written request supported by the respective area education agency special education officials.
4. The college/university outlines the coursework to be completed for the endorsement.

282—14.118(272) Conditional occupational and postsecondary licenses.

14.118(1) *Conditional occupational license.* A two-year conditional occupational license may be issued to an applicant who has not met all of the experience requirements for the provisional occupational license.

14.118(2) *Conditional postsecondary license.* A two-year conditional postsecondary license may be issued to an applicant who has not met all of the initial requirements for a provisional postsecondary license or holds the provisional or regular postsecondary license with an endorsement and is seeking an endorsement in another teaching field.

282—14.119(272) Requirements for a substitute teacher's license.

14.119(1) A substitute teacher's license may be issued to an individual who:

a. Has been the holder of, or presently holds, a license in Iowa; or holds or held a regular teacher's license or certificate in another state, exclusive of temporary, emergency, substitute certificate or license, or a certificate based on an alternative certification program; or

b. Has successfully completed all requirements of an approved teacher education program and is eligible for the initial license, but has not applied for and been issued this license, or who meets all requirements for the initial license with the exception of the degree but whose degree will be granted at the next regular commencement.

14.119(2) A substitute license is valid for five years and for not more than 90 days of teaching in one assignment during any one school year.

A school district administrator may file a written request with the board for an extension of the 90-day limit in one assignment on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

14.119(3) The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year. In addition to the authority inherent in the provisional, initial, educational, standard, professional teacher, master educator, two-year exchange, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect.

14.119(4) Renewal requirements for this license are set out in 282—Chapter 17.

282—14.120(272) Exchange licenses.

14.120(1) *Two-year teacher exchange license.*

a. A two-year nonrenewable exchange license may be issued to an individual under the following conditions:

(1) The individual has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the home state.

(2) The individual holds a valid regular certificate or license in the state in which the preparation was completed.

(3) The individual is not subject to any pending disciplinary proceedings in any state.

(4) The applicant for the exchange license complies with all requirements with regard to application processes and payments of licensure fees.

b. Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed.

c. Each individual receiving the two-year exchange license must complete any identified licensure deficiencies in order to be eligible for an initial regular license in Iowa.

14.120(2) *Two-year administrator exchange license.*

a. A two-year nonrenewable exchange license may be issued to an individual under the following conditions. The individual:

(1) Has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the individual's preparation state.

(2) Has completed a state-approved administrator education program in a college or university approved by the state board of education or the state board of educational examiners in the individual's preparation state.

(3) Holds a valid regular administrative certificate or license.

(4) Is not subject to any pending disciplinary proceedings in any state.

(5) Meets the experience requirements for the administrative endorsements. Verified successful completion of three years of full-time teaching experience in other states, on a valid license, shall be considered equivalent experience necessary for the principal endorsement. Verified successful completion of six years of full-time teaching and administrative experience in other states, on a valid license, shall be considered equivalent experience for the superintendent endorsement provided that at least three years were as a teacher and at least three years were as a building principal or other PK-12 districtwide administrator.

b. Each exchange license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrative licensure was completed.

c. Each individual receiving the two-year exchange license must complete any identified licensure deficiencies in order to be eligible for a regular educational and administrative license in Iowa.

14.120(3) *Two-year nonrenewable school counseling exchange license.*

a. A two-year nonrenewable school counseling exchange license may be issued to an individual, provided that the individual:

(1) Has completed a regionally accredited master's degree program in school guidance counseling.

(2) Holds a valid school counseling certificate or license issued by an examining board which issues certificates or licenses based on requirements which are substantially equivalent to those of the board of educational examiners.

(3) Meets the qualifications in Iowa Code section 272.6.

(4) Is not subject to any pending disciplinary proceeding in any state.

b. Each exchange license shall be limited to the area(s) and level(s) of counseling as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the school counseling license was completed.

c. Each applicant for the exchange license shall comply with all requirements with regard to application processes and payment of licensure fees.

d. Each individual receiving the two-year exchange license must complete any identified licensure deficiencies in order to be eligible for a regular educational license in Iowa.

e. Individuals licensed under this provision are subject to the administrative rules of the board.

282—14.121(272) Licensure and authorization application fee. All application and authorization fees are nonrefundable.

14.121(1) *Issuance and renewal of licenses, authorizations, and statements of professional recognition.* The fee for the issuance of each initial practitioner's license, the evaluator license, the statement of professional recognition, and the coaching authorization and the renewal of each license, evaluator approval license, statement of professional recognition, and coaching authorization shall be $50.

14.121(2) *Adding endorsements.* The fee for the addition of each endorsement to a license, following the issuance of the initial license and endorsement(s), shall be $25.

14.121(3) *Duplicate licenses, authorizations, and statements of professional recognition.* The fee for the issuance of a duplicate practitioner's license, evaluator license, statement of professional recognition or coaching authorization shall be $10.

14.121(4) *Evaluation fee.* Each application from an out-of-state institution for initial licensure shall include, in addition to the basic fee for the issuance of a license, a one-time nonrefundable $50 evaluation fee.

Each application or request for a statement of professional recognition shall include a one-time nonrefundable $50 evaluation fee.

14.121(5) *One-year emergency license.* The fee for the issuance of a one-year emergency license based on an expired conditional license or an expired administrative decision license shall be $100.

14.121(6) *Late renewal fee.* Effective September 1, 2000, an additional fee of $25 per calendar month, not to exceed $100, shall be imposed if a renewal application is submitted after the date of expiration of a practitioner's license. The board may waive a late renewal fee upon application for waiver of the fee by a practitioner. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

282—14.122(272) NCATE accredited programs. The requirements of the professional education core at subrule 14.123(4) notwithstanding, an applicant from an out-of-state institution who has completed a program accredited by the National Council for the Accreditation of Teacher Education on or after October 1, 1988, shall be recognized as having completed the professional education core set out in 14.123(4), with the exception of paragraph *"m."*

282—14.123(272) Requirements for an original teaching subject area endorsement. Following are the basic requirements for the issuance of a license with an endorsement.

14.123(1) Baccalaureate degree from a regionally accredited institution.

14.123(2) Completion of an approved human relations component.

14.123(3) Completion of the exceptional learner program, which must include preparation that contributes to the education of the handicapped and the gifted and talented.

14.123(4) Professional education core. Completed coursework or evidence of competency in:

a. Student learning. The practitioner understands how students learn and develop, and provides learning opportunities that support intellectual, career, social and personal development.

b. Diverse learners. The practitioner understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

c. Instructional planning. The practitioner plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

d. Instructional strategies. The practitioner understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

e. Learning environment/classroom management. The practitioner uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

f. Communication. The practitioner uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry, collaboration, and support interaction in the classroom.

g. Assessment. The practitioner understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

h. Foundations, reflection and professional development. The practitioner continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community, and actively seeks out opportunities to grow professionally.

i. Collaboration, ethics and relationships. The practitioner fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

j. Computer technology related to instruction.

k. Completion of prestudent teaching field-based experiences.

l. Methods of teaching with an emphasis on the subject and grade level endorsement desired.

m. Student teaching in the subject area and grade level endorsement desired.

14.123(5) Content/subject matter specialization. The practitioner understands the central concepts, tools of inquiry, and structure of the discipline(s) the practitioner teaches and creates learning experiences that make these aspects of subject matter meaningful for students.

This is evidenced by completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements.

282—14.124(272) Human relations requirements for practitioner licensure. Preparation in human relations shall be included in programs leading to teacher licensure. Human relations study shall include interpersonal and intergroup relations and shall contribute to the development of sensitivity to and understanding of the values, beliefs, life styles and attitudes of individuals and the diverse groups found in a pluralistic society.

14.124(1) Beginning on or after August 31, 1980, each applicant for an initial practitioner's license shall have completed the human relations requirement.

14.124(2) On or after August 31, 1980, each applicant for the renewal of a practitioner's license shall have completed an approved human relations requirement.

14.124(3) Credit for the human relations requirement shall be given for licensed persons who can give evidence that they have completed a human relations program which meets board of educational examiners criteria (see 282—14.127(272)).

282—14.125(272) Development of human relations components. Human relations components shall be developed by teacher preparation institutions. In-service human relations components may also be developed by educational agencies other than teacher preparation institutions, as approved by the board of educational examiners.

282—14.126(272) Advisory committee. Education agencies developing human relations components shall give evidence that in the development of their programs they were assisted by an advisory committee. The advisory committee shall consist of equal representation of various minority and majority groups.

282—14.127(272) Standards for approved components. Human relations components will be approved by the board of educational examiners upon submission of evidence that they are designed to develop the ability of participants to:

14.127(1) Be aware of and understand the values, life styles, history, and contributions of various identifiable subgroups in our society.

14.127(2) Recognize and deal with dehumanizing biases such as sexism, racism, prejudice, and discrimination and become aware of the impact that such biases have on interpersonal relations.

14.127(3) Translate knowledge of human relations into attitudes, skills, and techniques which will result in favorable learning experiences for students.

14.127(4) Recognize the ways in which dehumanizing biases may be reflected in instructional materials.

14.127(5) Respect human diversity and the rights of each individual.

14.127(6) Relate effectively to other individuals and various subgroups other than one's own.

282—14.128(272) Evaluation. Educational agencies providing the human relations components shall indicate the means to be utilized for evaluation.

282—14.129(272) Requirements for a teacher intern license.

14.129(1) Authorization. The teacher intern is authorized to teach in a high school, grades 9 to 12.

14.129(2) The term of the teacher intern license will be one year from the date of issuance. The fee for the teacher intern license is $100. This license is nonrenewable.

14.129(3) A teacher intern license shall be issued upon application provided that the following requirements have been met. The applicant shall:

a. Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution.

b. Meet the requirements of at least one of the board's secondary (7-12) teaching endorsements listed in 14.141(272).

c. Possess a minimum of three years of postbaccalaureate work experience. An authorized official at a college or university with an approved teacher intern program will evaluate this experience.

d. Successfully complete the introductory teacher intern program approved by the state board of education.

14.129(4) Local school district requirements. The local school district shall:

a. Provide an offer of employment to an individual who has been evaluated by a college or university for eligibility in the teacher intern program. Employment shall begin with the fall academic year.

b. Participate in a state-approved mentoring and induction program.

c. Provide a district mentor for the teacher intern.

d. Provide other support and supervision, as needed, to maximize the opportunity for the teacher intern to succeed.

e. Not unnecessarily overload the teacher intern with extracurricular duties not directly related to the teacher intern's teaching assignment.

f. Provide evidence to the board from a licensed evaluator that the teacher intern is participating in a mentoring and induction program.

g. At the board's request, provide information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

14.129(5) Program requirements. The teacher intern shall:

a. Complete the teacher intern introductory program of a minimum of 12 semester hours to include the following:

(1) Learning environment/classroom management. The intern uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

(2) Instructional planning. The intern plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

(3) Instructional strategies. The intern understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

(4) Student learning. The intern understands how students learn and develop and provides learning opportunities that support intellectual, career, social, and personal development.

(5) Diverse learners. The intern understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

(6) Collaboration, ethics and relationships. The intern fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

(7) Assessment. The intern understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

(8) Field experience that provides opportunities for interaction with students.

b. Complete four semester hours of a teacher intern seminar during the teacher internship year to include support and extension of coursework from the teacher intern introductory program.

c. Complete a concluding teacher intern program of a minimum of 12 semester hours in the following areas:

(1) Foundations, reflection, and professional development. The intern continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community and actively seeks out opportunities to grow professionally.

(2) Communication. The intern uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

(3) Exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

(4) Preparation in the integration of reading strategies into the content area.

(5) Computer technology related to instruction.

(6) An advanced study of the items set forth in 14.129(5)"*a*"(1) to (7) above.

14.129(6) Requirements to convert the teacher intern license to the initial license. An initial license shall be issued upon application provided that the teacher intern has met all of the following requirements:

a. Successful completion of the entire teacher intern program approved by the state board of education.

b. Verification from a licensed evaluator that the teacher intern served successfully for a minimum of 160 days.

c. Verification from a licensed evaluator that the teacher intern is participating in a state-approved mentoring and induction program.

d. Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.

e. At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

The teacher intern year will count as one of the years that is needed for the teacher intern to convert the initial license to the standard license if the above conditions have been met.

282—14.130(272) Requirements for an alternative preparation license for out-of-state candidates. Following are the basic requirements for the issuance of a teaching license based on an alternative preparation program with an endorsement for persons prepared in states other than Iowa. The person shall:

14.130(1) Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution.

14.130(2) Provide a valid out-of-state teaching license based on a state-approved alternative preparation program.

14.130(3) Provide a recommendation from a regionally accredited institution, department of education, or a state's standards board indicating the completion of an approved alternative teacher preparation program.

14.130(4) Provide official institutional transcript(s) to be analyzed for the requirements necessary for full Iowa licensure based on 14.129(5)"*a*"(1) to (7) and 14.129(5)"*c*"(1) to (5).

14.130(5) Verify three years of teaching experience, which will waive the student teaching requirement.

The alternative preparation license is valid for two years and may be renewed under certain prescribed conditions for an initial license listed in 282—17.8(272).

282—14.131 to **14.139** Reserved.

282—14.140(272) Requirements for other teaching endorsements. The holder of any K-6 instructional endorsement set out herein may be assigned by local school board action to teach that instructional area at the 7-8 grade levels, and the holder of any 7-12 instructional endorsement set out herein may be assigned by local school board action to teach that instructional area at the 5-6 grade levels.

14.140(1) *Athletic coach.* K-12.

a. The holder of this endorsement may serve as a head coach or an assistant coach in kindergarten and grades one through twelve.

b. Program requirements.

(1) One semester hour college or university course in the structure and function of the human body in relation to physical activity.

(2) One semester hour college or university course in human growth and development of children and youth as related to physical activity.

(3) Two semester hour college or university course in athletic conditioning, care and prevention of injuries and first aid as related to physical activity.

(4) One semester hour college or university course in the theory of coaching interscholastic athletics.

NOTE: An applicant for the coaching endorsement must hold a teacher's license with one of the teaching endorsements.

14.140(2) *Teacher—elementary classroom.*

a. Authorization. The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations component.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content:

1. Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See 14.123(4).
2. Methods and materials of teaching elementary language arts.
3. Methods and materials of teaching elementary reading.
4. Elementary curriculum (methods and materials).
5. Methods and materials of teaching elementary mathematics.
6. Methods and materials of teaching elementary science.
7. Children's literature.
8. Methods and materials of teaching elementary social studies.
9. Methods and materials in two of the following areas:
   Methods and materials of teaching elementary health.
   Methods and materials of teaching elementary physical education.
   Methods and materials of teaching elementary art.
   Methods and materials of teaching elementary music.
10. Pre-student teaching field experience in at least two different grades.
11. A field of specialization in a single discipline or a formal interdisciplinary program of at least twelve semester hours.

14.140(3) *Teacher—prekindergarten-kindergarten.*

a. Authorization. The holder of this endorsement is authorized to teach at the prekindergarten-kindergarten level.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content:

1. Human growth and development: infancy and early childhood, unless completed as part of the professional education core. See 14.123(4).
2. Curriculum development and methodology for young children.
3. Child-family-school-community relationships (community agencies).
4. Guidance of young children three to six years of age.
5. Organization of prekindergarten-kindergarten programs.
6. Child and family nutrition.
7. Language development and learning.
8. Kindergarten: programs and curriculum development.

14.140(4) *English as a second language (ESL).* K-12.

a. Authorization. The holder of this endorsement is authorized to teach English as a second language in kindergarten and grades one through twelve.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content. Completion of 18 semester hours of coursework in English as a second language to include the following:

1. Knowledge of pedagogy to include the following:
- Methods and curriculum to include the following:
—Bilingual and ESL methods.
—Literacy in native and second language.
—Methods for subject matter content.
—Adaptation and modification of curriculum.
- Assessment to include language proficiency and academic content.

2. Knowledge of linguistics to include the following:
- Psycholinguistics and sociolinguistics.
- Language acquisition and proficiency to include the following:
—Knowledge of first and second language proficiency.
—Knowledge of first and second language acquisition.
- Language to include structure and grammar of English.

3. Knowledge of cultural and linguistic diversity to include the following:
- History.
- Theory, models, and research.
- Policy and legislation.
- Current issues with transient populations.

14.140(5) *Elementary counselor.*

a. Authorization. The holder of this endorsement is authorized to serve as a school guidance counselor in kindergarten and grades one through six.

b. Program requirements.

(1) Master's degree from an accredited institution of higher education.

(2) Completion of an approved human relations component.

(3) Completion of an approved exceptional learner component.

c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adult.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

2. Maintain a high level of professional knowledge and skills.

3. Apply knowledge of professional and ethical standards to the practice of school counseling.

4. Articulate the counselor role to school personnel, parents, community, and students.

(8) School counseling skills.

1. Design, implement, and evaluate a comprehensive, developmental school guidance program.

2. Implement and evaluate specific strategies designed to meet program goals and objectives.

3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.

4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.

5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.

6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.

7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.

8. Assist in the process of identifying and addressing the needs of the exceptional student.

9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.

10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.

11. Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.

(9) Classroom management.

1. Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.

2. Consult with teachers and parents about effective classroom management and behavior management strategies.

(10) Curriculum.

1. Write classroom lessons including objectives, learning activities, and discussion questions.

2. Utilize various methods of evaluating what students have learned in classroom lessons.

3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.

4. Design a classroom unit of developmentally appropriate learning experiences.

5. Demonstrate knowledge in writing standards and benchmarks for curriculum.

(11) Learning theory.

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation.

14.140(6) *Secondary counselor.*

a. Authorization. The holder of this endorsement is authorized to serve as a school guidance counselor in grades seven through twelve.

b. Program requirements.

(1) Master's degree from an accredited institution of higher education.

(2) Completion of an approved human relations component.

(3) Completion of an approved exceptional learner component.

c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adult.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

2. Maintain a high level of professional knowledge and skills.

3. Apply knowledge of professional and ethical standards to the practice of school counseling.

4. Articulate the counselor role to school personnel, parents, community, and students.

(8) School counseling skills.

1. Design, implement, and evaluate a comprehensive, developmental school guidance program.

2. Implement and evaluate specific strategies designed to meet program goals and objectives.

3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.

4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.

5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.

6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.

7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.

8. Assist in the process of identifying and addressing the needs of the exceptional student.
9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.
10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.
11. Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.

(9) Classroom management.

1. Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.
2. Consult with teachers and parents about effective classroom management and behavior management strategies.

(10) Curriculum.

1. Write classroom lessons including objectives, learning activities, and discussion questions.
2. Utilize various methods of evaluating what students have learned in classroom lessons.
3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.
4. Design a classroom unit of developmentally appropriate learning experiences.
5. Demonstrate knowledge in writing standards and benchmarks for curriculum.

(11) Learning theory.

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.
2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.
3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance and consultation.

14.140(7) *Reading specialist.* K-12.

a. Authorization. The holder of this endorsement is authorized to serve as a reading specialist in kindergarten and grades one through twelve.

b. Program requirements.

(1) Degree—master's.

(2) Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 27 semester hours to include the following:

1. Educational psychology/human growth and development.
2. Educational measurement and evaluation.
3. Foundations of reading.
4. Diagnosis of reading problems.
5. Remedial reading.
6. Psychology of reading.

7. Language learning and reading disabilities.
8. Practicum in reading.
9. Administration and supervision of reading programs at the elementary and secondary levels.

NOTE: The applicant must have met the requirements for the standard license and a teaching endorsement, and present evidence of at least one year of experience which included the teaching of reading as a significant part of the responsibility.

14.140(8) *Elementary school media specialist.*

a. Authorization. The holder of this endorsement is authorized to serve as a school media specialist in kindergarten and grades one through six.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content. Completion of 24 semester hours in school media coursework to include the following:

1. Knowledge of materials and literature in all formats for elementary children.
2. Selection, utilization and evaluation of library media materials and equipment.
3. Design and production of instructional materials.
4. Acquisition, cataloging and classification of materials and organization of equipment.
5. Information retrieval, reference services and networking.
6. Planning, evaluation and administration of media programs.
7. Practicum in an elementary school media center.

14.140(9) *Secondary school media specialist.*

a. Authorization. The holder of this endorsement is authorized to serve as a school media specialist in grades seven through twelve.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content. Completion of 24 semester hours in school media coursework to include the following:

1. Knowledge of materials and literature in all formats for adolescents.
2. Selection, utilization and evaluation of library media materials and equipment.
3. Design and production of instructional materials.
4. Acquisition, cataloging and classification of materials and organization of equipment.
5. Information retrieval, reference services and networking.
6. Planning, evaluation and administration of media programs.
7. Practicum in a secondary school media center.

14.140(10) *School media specialist.* K-12.

a. Authorization. The holder of this endorsement is authorized to serve as a school media specialist in kindergarten and grades one through twelve.

b. Program requirements:

(1) Degree—master's.

(2) Content. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school media coursework, to include the following:

1. Planning, evaluation and administration of media programs.
2. Curriculum development and teaching and learning strategies.

3. Instructional development and communication theory.
4. Selection, evaluation and utilization of library media materials and equipment.
5. Acquisition, cataloging and classification of materials and organization of equipment.
6. Design and production of instructional materials.
7. Methods for instruction and integration of media skills into the school curriculum.
8. Information retrieval, reference services and networking.
9. Knowledge of materials and literature in all formats for elementary children and adolescents.
10. Reading, listening and viewing guidance.
11. Utilization and application of computer technology.
12. Practicum at both the elementary and secondary levels.
13. Research in media and information science.

NOTE: The applicant must be the holder of or eligible for the initial license.

14.140(11) *School nurse.*

a. Authorization. The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one through twelve.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content:

1. Organization and administration of school nurse services including the appraisal of the health needs of children and youth.
2. School-community relationships and resources/coordination of school and community resources to serve the health needs of children and youth.
3. Knowledge and understanding of the health needs of exceptional children.
4. Health education.

c. Other. Hold a license as a registered nurse issued by the board of nursing.

NOTE: Although the school nurse endorsement does not authorize general classroom teaching, it does authorize the holder to teach health at all grade levels.

14.140(12) *Teacher—prekindergarten through grade three.*

a. Authorization. The holder of this endorsement is authorized to teach children from birth through grade three.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content:

1. Child growth and development with emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical, for infants and toddlers, preprimary, and primary school children (grades one through three), unless combined as part of the professional education core. See 14.123(4) of the licensure rules for the professional core.
2. Historical, philosophical, and social foundations of early childhood education.
3. Developmentally appropriate curriculum with emphasis on integrated multicultural and nonsexist content including language, mathematics, science, social studies, health, safety, nutrition, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology, including adaptations for individual needs, for infants and toddlers, preprimary, and primary school children.
4. Characteristics of play and creativity, and their contributions to the cognitive, language, physical, social and emotional development and learning of infants and toddlers, preprimary, and primary school children.

5. Classroom organization and individual interactions to create positive learning environments for infants and toddlers, preprimary, and primary school children based on child development theory emphasizing guidance techniques.

6. Observation and application of developmentally appropriate assessments for infants and toddlers, preprimary, and primary school children recognizing, referring, and making adaptations for children who are at risk or who have exceptional educational needs and talents.

7. Home-school-community relationships and interactions designed to promote and support parent, family and community involvement, and interagency collaboration.

8. Family systems, cultural diversity, and factors which place families at risk.

9. Child and family health and nutrition.

10. Advocacy, legislation, and public policy as they affect children and families.

11. Administration of child care programs to include staff and program development and supervision and evaluation of support staff.

12. Pre-student teaching field experience with three age levels in infant and toddler, preprimary, and primary programs, with no less than 100 clock hours, and in different settings, such as rural and urban, socioeconomic status, cultural diversity, program types, and program sponsorship.

(5) Student teaching experiences with two different age levels, one before kindergarten and one from kindergarten through grade three.

14.140(13) *Talented and gifted teacher-coordinator.*

a. Authorization. The holder of this endorsement is authorized to serve as a teacher or a coordinator of programs for the talented and gifted from the prekindergarten level through grade twelve. This authorization does not permit general classroom teaching at any level except that level or area for which the holder is eligible or holds the specific endorsement.

b. Program requirements—content. Completion of 12 undergraduate or graduate semester hours of coursework in the area of the talented and gifted to include the following:

(1) Psychology of the gifted.

(2) Programming for the gifted.

(3) Administration and supervision of gifted programs.

(4) Practicum experience in gifted programs.

NOTE: Teachers in specific subject areas will not be required to hold this endorsement if they teach gifted students in their respective endorsement areas.

Practitioners licensed and employed after August 31, 1995, and assigned as teachers or coordinators in programs for the talented and gifted will be required to hold this endorsement.

14.140(14) *American Sign Language endorsement.*

a. Authorization. The holder of this endorsement is authorized to teach American Sign Language in kindergarten and grades one through twelve.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core.

(4) Content. Completion of 18 semester hours of coursework in American Sign Language to include the following:

1. Second language acquisition.

2. Sociology of the deaf community.

3. Linguistic structure of American Sign Language.

4. Language teaching methodology specific to American Sign Language.

5. Teaching the culture of deaf people.

6. Assessment of students in an American Sign Language program.

c. Other. Be the holder of or be eligible for one other teaching endorsement listed in rule 14.140(272) or 14.141(272).

14.140(15) *Middle school endorsement.*

a. Authorization. The holder of this endorsement is authorized to teach all subjects in grades five through eight with the exception of art, industrial arts, music, reading, physical education and special education.

b. Program requirements.

(1) Be the holder of a currently valid Iowa teacher's license with either the general elementary endorsement or one of the subject matter secondary level endorsements set out in rule 14.141(272C), or 282—subrules 16.1(1) to 16.1(3).

(2) Required coursework.

1. Three semester hours of coursework in the growth and development of the middle school age child, specifically addressing the emotional, physical and mental characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core in 14.123(4).

2. Three semester hours of coursework in middle school design, instruction, and curriculum including, but not limited to, instruction in interdisciplinary teaming, pedagogy, and methods in addition to related studies completed as part of the professional education core in 14.123(4).

3. Six semester hours of coursework in the social studies to include coursework in American history, world history, and geography.

4. Six semester hours in mathematics to include coursework in algebra.

5. Six semester hours in science to include coursework in life science and physical science.

6. Six semester hours in language arts to include coursework in grammar, composition, and speech.

14.140(16) *Teacher—prekindergarten through grade three, including special education.*

a. Authorization. The holder of this endorsement is authorized to teach children from birth through grade three.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

c. Content.

(1) Child growth and development.

1. Understand the nature of child growth and development for infants and toddlers (birth through age 2), preprimary (age 3 through age 5) and primary school children (age 6 through age 8), both typical and atypical, in areas of cognition, language development, physical motor, social-emotional, aesthetics, and adaptive behavior.

2. Understand individual differences in development and learning including risk factors, developmental variations and developmental patterns of specific disabilities and special abilities.

3. Recognize that children are best understood in the contexts of family, culture and society and that cultural and linguistic diversity influences development and learning.

(2) Developmentally appropriate learning environment and curriculum implementation.

1. Establish learning environments with social support, from the teacher and from other students, for all children to meet their optimal potential, with a climate characterized by mutual respect, encouraging and valuing the efforts of all regardless of proficiency.

2. Appropriately use informal and formal assessment to monitor development of children and to plan and evaluate curriculum and teaching practices to meet individual needs of children and families.

3. Plan, implement, and continuously evaluate developmentally and individually appropriate curriculum goals, content, and teaching practices for infants, toddlers, preprimary and primary children based on the needs and interests of individual children, their families and community.

4. Use both child-initiated and teacher-directed instructional methods, including strategies such as small and large group projects, unstructured and structured play, systematic instruction, group discussion and cooperative decision making.

5. Develop and implement integrated learning experiences for home-, center- and school-based environments for infants, toddlers, preprimary and primary children:

- Develop and implement integrated learning experiences that facilitate cognition, communication, social and physical development of infants and toddlers within the context of parent-child and caregiver-child relationships.
- Develop and implement learning experiences for preprimary and primary children with focus on multicultural and nonsexist content that includes development of responsibility, aesthetic and artistic development, physical development and well-being, cognitive development, and emotional and social development.
- Develop and implement learning experiences for infants, toddlers, preprimary, and primary children with a focus on language, mathematics, science, social studies, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology.
- Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs.

6. Adapt materials, equipment, the environment, programs and use of human resources to meet social, cognitive, physical motor, communication, and medical needs of children and diverse learning needs.

(3) Health, safety and nutrition.

1. Design and implement physically and psychologically safe and healthy indoor and outdoor environments to promote development and learning.

2. Promote nutritional practices that support cognitive, social, cultural and physical development of young children.

3. Implement appropriate appraisal and management of health concerns of young children including procedures for children with special health care needs.

4. Recognize signs of emotional distress, physical and mental abuse and neglect in young children and understand mandatory reporting procedures.

5. Demonstrate proficiency in infant-child cardiopulmonary resuscitation, emergency procedures and first aid.

(4) Family and community collaboration.

1. Apply theories and knowledge of dynamic roles and relationships within and between families, schools, and communities.

2. Assist families in identifying resources, priorities, and concerns in relation to the child's development.

3. Link families, based on identified needs, priorities and concerns, with a variety of resources.

4. Use communication, problem-solving and help-giving skills in collaboration with families and other professionals to support the development, learning and well-being of young children.

5. Participate as an effective member of a team with other professionals and families to develop and implement learning plans and environments for young children.

(5) Professionalism.

1. Understand legislation and public policy that affect all young children, with and without disabilities, and their families.

2. Understand legal aspects, historical, philosophical, and social foundations of early childhood education and special education.

3. Understand principles of administration, organization and operation of programs for children aged birth to age 8 and their families, including staff and program development, supervision and evaluation of staff, and continuing improvement of programs and services.

4. Identify current trends and issues of the profession to inform and improve practices and advocate for quality programs for young children and their families.

5. Adhere to professional and ethical codes.

6. Engage in reflective inquiry and demonstration of professional self-knowledge.

(6) Pre-student teaching field experiences. Complete 100 clock hours of pre-student teaching field experience with three age levels in infant and toddler, preprimary and primary programs and in different settings, such as rural and urban, encompassing differing socioeconomic status, ability levels, cultural and linguistic diversity and program types and sponsorship.

(7) Student teaching. Complete a supervised student teaching experience of a total of at least 12 weeks in at least two different classrooms which include children with and without disabilities in two of three age levels: infant and toddler, preprimary, and primary.

282—14.141(272) Minimum content requirements for teaching endorsements. The holder of any K-6 instructional endorsement set out herein may be assigned by local school board action to teach that instructional area at the 7-8 grade levels, and the holder of any 7-12 instructional endorsement set out herein may be assigned by local school board action to teach that instructional area at the 5-6 grade levels.

14.141(1) *Agriculture.* 7-12. Completion of 24 semester hours in agriculture to include coursework in agronomy, animal science, agricultural mechanics, and agricultural economics.

14.141(2) *Art.* K-6 or 7-12. Completion of 24 semester hours in art to include coursework in art history, studio art, and two- and three-dimensional art.

14.141(3) *Business—general.* 7-12. Completion of 24 semester hours in business to include 6 semester hours in accounting, 6 semester hours in business law, and coursework in computer applications, and coursework in consumer studies.

14.141(4) *Business—office.* 7-12. Completion of 24 semester hours in business to include advanced coursework in typewriting, computer applications or word processing, and office management.

14.141(5) *Business—marketing/management.* 7-12. Completion of 24 semester hours in business to include a minimum of 6 semester hours each in marketing, management, and economics.

14.141(6) *Driver and safety education.* 7-12. Completion of 15 semester hours in driver and safety education to include coursework in accident prevention, vehicle safety, and behind-the-wheel driving.

14.141(7) *English/language arts.*

a. K-6. Completion of 24 semester hours in English and language arts to include coursework in oral communication, written communication, language development, reading, children's literature, creative drama or oral interpretation of literature, and American literature.

b. 7-12. Completion of 24 semester hours in English to include coursework in oral communication, written communication, language development, reading, American literature, English literature and adolescent literature.

14.141(8) *Foreign language.* K-6 and 7-12. Completion of 24 semester hours in each foreign language for which endorsement is sought.

14.141(9) *Health.* K-6 and 7-12. Completion of 24 semester hours in health to include coursework in public or community health, consumer health, substance abuse, family life education, mental/emotional health, and human nutrition.

14.141(10) *Home economics—general.* 7-12. Completion of 24 semester hours in home economics to include coursework in family life development, clothing and textiles, housing, and foods and nutrition.

14.141(11) *Industrial technology.* 7-12. Completion of 24 semester hours in industrial technology to include coursework in manufacturing, construction, energy and power, graphic communications and transportation. The coursework is to include at least 6 semester hours in three different areas.

14.141(12) *Journalism.* 7-12. Completion of 15 semester hours in journalism to include coursework in writing, editing, production and visual communications.

14.141(13) *Mathematics.*

a. K-6. Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, number theory, measurement, computer programming, and probability and statistics.

b. 7-12. Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, calculus, computer programming, and probability and statistics.

14.141(14) *Music.*

a. K-6. Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history, and applied music.

b. 7-12. Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history (at least two courses), applied music, and conducting.

14.141(15) *Physical education.*

a. K-6. Completion of 24 semester hours in physical education to include coursework in human anatomy, human physiology, movement education, adapted physical education, physical education in the elementary school, human growth and development of children related to physical education, and first aid and emergency care.

b. 7-12. Completion of 24 semester hours in physical education to include coursework in human anatomy, kinesiology, human physiology, human growth and development related to maturational and motor learning, adapted physical education, curriculum and administration of physical education, assessment processes in physical education, and first aid and emergency care.

14.141(16) *Reading.*

a. K-6. Completion of 20 semester hours in reading to include at least 12 semester hours specifically in reading by course title which must include foundations in methods and materials for teaching reading in the elementary classroom, corrective reading, remedial reading, a supervised tutoring experience, and at least 8 hours of coursework from oral and written communication, language development, children's literature, and tests and measurement.

b. 7-12. Completion of 20 semester hours in reading to include at least 12 semester hours specifically in reading by course title which must include foundations in methods and materials of teaching reading in the secondary classroom, corrective reading, reading in content areas, remedial reading, a supervised tutoring experience, and at least 8 hours of coursework from oral and written communication, the structure of language, adolescent literature, and tests and measurement.

14.141(17) *Science.*

a. Science—basic. K-6. Completion of at least 24 semester hours in science to include 12 hours in physical sciences, 6 hours in biology, and 6 hours in earth/space sciences.

(1) Competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.
2. Understand the fundamental facts and concepts in major science disciplines.
3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.
4. Be able to use scientific understanding when dealing with personal and societal issues.

(2) Reserved.

b. Biological science. 7-12. Completion of 24 semester hours in biological science or 30 semester hours in the broad area of science to include 15 semester hours in biological science.

c. Chemistry. 7-12. Completion of 24 semester hours in chemistry or 30 semester hours in the broad area of science to include 15 semester hours in chemistry.

d. Earth science. 7-12. Completion of 24 semester hours in earth science or 30 semester hours in the broad area of science to include 15 semester hours in earth science.

e. General science. 7-12. Completion of 24 semester hours in science to include coursework in biological science, chemistry, and physics.

f. Physical science. 7-12. Completion of 24 semester hours in physical sciences to include coursework in physics, chemistry, and earth science.

g. Physics. 7-12. Completion of 24 semester hours in physics or 30 semester hours in the broad area of science to include 15 semester hours in physics.

h. All science I. Grades 5-8. The holder of this endorsement must also hold the middle school endorsement listed under 14.140(15).

(1) Required coursework. Completion of at least 24 semester hours in science to include 6 hours in chemistry, 6 hours in physics or physical sciences, 6 hours in biology, and 6 hours in the earth/space sciences.

(2) Competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.
2. Understand the fundamental facts and concepts in major science disciplines.
3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.
4. Be able to use scientific understanding when dealing with personal and societal issues.

i. All science II. Grades 9-12.

(1) Required coursework.

1. Completion of one of the following endorsement areas listed under 14.21(17): biological 7-12 or chemistry 7-12 or earth science 7-12 or physics 7-12.
2. Completion of at least 12 hours in each of the other three endorsement areas.

(2) Competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.
2. Understand the fundamental facts and concepts in major science disciplines.
3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.
4. Be able to use scientific understanding when dealing with personal and societal issues.

14.141(18) *Social sciences.*

a. American government. 7-12. Completion of 24 semester hours in American government or 30 semester hours in the broad area of social sciences to include 15 semester hours in American government.

b. American history. 7-12. Completion of 24 semester hours in American history or 30 semester hours in the broad area of the social sciences to include 15 semester hours in American history.

c. Anthropology. 7-12. Completion of 24 semester hours in anthropology or 30 semester hours in the broad area of social sciences to include 15 semester hours in anthropology.

d. Economics. 7-12. Completion of 24 semester hours in economics or 30 semester hours in the broad area of the social sciences to include 15 semester hours in economics, or 30 semester hours in the broad area of business to include 15 semester hours in economics.

e. Geography. 7-12. Completion of 24 semester hours in geography or 30 semester hours in the broad area of the social sciences to include 15 semester hours in geography.

f. History. K-6. Completion of 24 semester hours in history to include at least 9 semester hours in American history and 9 semester hours in world history.

g. Psychology. 7-12. Completion of 24 semester hours in psychology or 30 semester hours in the broad area of social sciences to include 15 semester hours in psychology.

h. Social studies. K-6. Completion of 24 semester hours in social studies, to include coursework from at least three of these areas: history, sociology, economics, American government, psychology and geography.

i. Sociology. 7-12. Completion of 24 semester hours in sociology or 30 semester hours in the broad area of social sciences to include 15 semester hours in sociology.

j. World history. 7-12. Completion of 24 semester hours in world history or 30 semester hours in the broad area of social sciences to include 15 semester hours in world history.

k. All social sciences. 7-12. Effective July 1, 2000, completion of 51 semester hours in the social sciences to include 9 semester hours in each of American and world history, 9 semester hours in government, 6 semester hours in sociology, 6 semester hours in psychology other than educational psychology, 6 semester hours in geography, and 6 semester hours in economics.

14.141(19) *Speech communication/theatre.*

a. K-6. Completion of 20 semester hours in speech communication/theatre to include coursework in speech communication, creative drama or theatre, and oral interpretation.

b. 7-12. Completion of 24 semester hours in speech communication/theatre to include coursework in speech communication, oral interpretation, creative drama or theatre, argumentation and debate, and mass media communication.

282—14.142(272) Area and grade levels of administrative endorsements.

14.142(1) *Elementary principal.*

a. Authorization. The holder of this endorsement is authorized to serve as a principal of programs serving children from birth through grade six. The holder of this endorsement may be assigned by local school board action to fulfill this responsibility at the 7-8 grade level.

b. Program requirements.

(1) Degree—master's.

(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements.

1. Knowledge of early childhood, elementary, and early adolescent level administration, supervision, and evaluation.

2. Knowledge and skill related to early childhood, elementary, and early adolescent level curriculum development.

3. Knowledge of child growth and development from birth through early adolescence and developmentally appropriate strategies and practices of early childhood, elementary, and early adolescence, to include an observation practicum.

4. Knowledge of family support systems, factors which place families at risk, child care issues, and home-school community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.

5. Knowledge of school law and legislative and public policy issues affecting children and families.

6. Planned field experiences in early childhood and elementary or early adolescent school administration.

7. Evaluator approval component.

(3) Competencies: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. A school administrator is an educational leader who promotes the success of all students by accomplishing the following competencies.

1. Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.

2. Advocates, nurtures, and sustains a school culture and instructional program conducive to student learning and staff professional growth.

3. Ensures management of the organization, operations, and resources for a safe, efficient, and effective learning environment.

4. Collaborates with families and community members, responds to diverse community interests and needs, and mobilizes community resources.

5. Acts with integrity, fairness, and in an ethical manner.

6. Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.

c. Other.

(1) The applicant must have had three years of teaching experience at the early childhood through grade six level.

(2) Graduates from institutions in other states who are seeking initial Iowa licensure and the elementary principal's endorsement must meet the requirements for the standard license in addition to the experience requirements.

14.142(2) *Secondary principal.*

a. Authorization. The holder of this endorsement is authorized to serve as a principal in grades seven through twelve. The holder of this endorsement may be assigned by local school board action to fulfill this responsibility at the 5-6 grade level.

b. Program requirements.

(1) Degree—master's.

(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements.

1. Knowledge of early adolescent and secondary level administration, supervision, and evaluation.

2. Knowledge and skill related to early adolescent and secondary level curriculum development.

3. Knowledge of human growth and development from early adolescence through early adult development, to include an observation practicum.

4. Knowledge of family support systems, factors which place families at risk, child care issues, and home-school community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.

5. Knowledge of school law and legislative and public policy issues affecting children and families.

6. Planned field experiences in early adolescence or early adult school administration.

7. Evaluator approval component.

(3) Competencies: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. A school administrator is an educational leader who promotes the success of all students by accomplishing the following competencies.

1. Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.

2. Advocates, nurtures, and sustains a school culture and instructional program conducive to student learning and staff professional growth.

3. Ensures management of the organization, operations, and resources for a safe, efficient, and effective learning environment.

4. Collaborates with families and community members, responds to diverse community interests and needs, and mobilizes community resources.

5. Acts with integrity, fairness, and in an ethical manner.

6. Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.

c. Other.

(1) The applicant must have had three years of teaching experience at the secondary level (7-12).

(2) Graduates from institutions in other states who are seeking initial Iowa licensure and the secondary principal's endorsement must meet the requirements for the standard license in addition to the experience requirements.

14.142(3) *Superintendent.*

a. Authorization. The holder of this endorsement is authorized to serve as a superintendent from the prekindergarten level through grade twelve.

NOTE: This authorization does not permit general teaching, school service, or administration at any level except that level or area for which the holder is eligible or holds the specific endorsement(s).

b. Program requirements.

(1) Degree—specialist—(or its equivalent: A master's degree plus at least 30 semester hours of planned graduate study in administration beyond the master's degree).

(2) Content: Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 45 semester hours to include the following:

1. General elementary level administration.
2. General early adolescent level administration.
3. General secondary level administration.
4. Elementary, early adolescent, and secondary school supervision.
5. Curriculum development.
6. School law.
7. School finance.
8. School plant/facility planning.
9. School personnel/negotiations.
10. Knowledge of school-community relationships/public relations.
11. Administrative theory/principles of educational administration.
12. Social, philosophical, or psychological foundations.
13. Planned field experience in school administration.
14. Evaluator approval component.

c. Other.

(1) The applicant must have had three years of experience as a building principal or other PK-12 districtwide or area education agency administrative experience.

(2) The applicant must have had three years of teaching experience at the early childhood through grade 12 levels.

(3) Graduates from institutions in other states who are seeking initial Iowa licensure and the superintendent's endorsement must meet the requirements for the standard license in addition to the experience requirements. The requirement of three years of teaching experience may be met by a combination of teaching and administrative experience with the following stipulations. The applicant must have completed two years of teaching experience at the early childhood through grade 12 levels. If administrative experience is used in lieu of the third year of teaching experience, the applicant must have completed the administrative experience as a building principal or must have completed other PK-12 districtwide administrative experience.

14.142(4) *AEA administrator license.* The area education agency administrator's license shall be issued to an applicant who has met the requirements in two of the four following paragraphs *"a"* through *"d"* and has also met the requirement in paragraph *"e"*:

a. Five years' experience in higher education administration at a two- or four-year college or university which is accredited by the North Central Association of Colleges and Secondary Schools accrediting agency or which has been certified by the North Central Association of Colleges and Secondary Schools accrediting agency as a candidate for accreditation by that agency or at a school giving satisfactory assurance that it has the potential for accreditation and is making progress which, if continued, will result in its achieving accreditation by that agency within a reasonable time; or an earned doctorate in higher education administration.

b. Five years' experience in special education, media services, or educational services administration; or an earned doctorate in special education, media services, or educational services or any subspecialty of these services.

c. Five years' experience in primary or secondary school education; or an earned doctorate in educational administration for the primary or secondary level; and five years' teaching experience at any educational level.

d. Five years' experience in business or other nonacademic career pursuit; or an earned doctorate in public administration or business administration.

e. Evaluator approval component.

A person shall not be issued a temporary or emergency license for more than one year. An area education agency shall neither employ unlicensed administrators nor employ temporary or emergency licensed administrators for more than two consecutive years.

282—14.143(272) Requirements for a substitute authorization. A substitute authorization allows an individual to substitute in a middle school, junior high school, or high school for no more than five consecutive days in one job assignment. An individual who holds a paraeducator certificate and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed.

14.143(1) A substitute authorization may be issued to an individual who:

a. Has successfully completed all requirements of a board of educational examiners-approved substitute authorization program consisting of the following components and totaling a minimum of 15 clock hours:

(1) Classroom management. This component includes an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

(2) Strategies for learning. This component includes understanding and using a variety of learning strategies to encourage students' development of critical thinking, problem solving, and performance skills.

(3) Diversity. This component includes understanding how students differ in their approaches to learning and creating learning opportunities that are equitable and are adaptable to diverse learners.

(4) Ethics. This component includes fostering relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and to be aware of the board's rules of professional practice and competent performance.

b. Has achieved at least one of the following:

(1) Holds a baccalaureate degree from a regionally accredited institution.

(2) Completed an approved paraeducator certification program and holds a paraeducator certificate.

c. Has attained a minimum age of 21 years.

d. Has successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant.

e. Has successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

14.143(2) The fee for the substitute authorization is $25 for one year.

14.143(3) The substitute authorization must be renewed annually. Renewal requirements for the substitute authorization consist of a minimum of one renewal unit equivalent to 15 clock hours and completion of a child and dependent adult abuse training program approved by the state abuse education review panel. A waiver of the approved child and dependent adult abuse training requirement may apply under the following conditions with appropriate documentation of any of the following:

a. A person is engaged in active duty in the military service of this state or of the United States.

b. The application of the rule would impose an undue hardship on the person for whom the waiver is requested.

c. A person is practicing a licensed profession outside this state.

d. A person is otherwise subject to circumstances that would preclude the person from completing the approved child and dependent adult abuse training in this state.

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CHAPTER 14*
OFFSET OF COUNTY DEBTS OWED DEPARTMENT

PREAMBLE

These rules provide a process for the department (1) to identify counties that owe liabilities to the department and (2) to cooperate with the department of revenue and finance for offsetting the counties' claims against state agencies with the liabilities which those counties owe the department. The process for identifying counties that owe liabilities and the process for offset each include notice and opportunity to be heard.

441—14.1(217,234) Definitions.

"Department" means the Iowa department of human services.

"Director" is the director of the Iowa department of human services.

"Liability" or *"debt"* means any liquidated sum due and owing to the department which has accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum. Before setoff, the amount of a county's liability to the department shall be at least $50.

"Offset" shall mean to set off or compensate the department which has a legal claim against a county where there exists a county's valid claim on a state agency that is in the form of a liquidated sum due, owing and payable. Before setoff, the amount of a county's claims on a state agency shall be at least $50.

441—14.2(217,234) Identifying counties with liabilities.

14.2(1) *Notice to county regarding liability.* When a bill to the county remains unpaid 60 calendar days following the date of the bill, the county shall be given written notice by the department. This notice shall:

a. State the amount due, the name of the patient or client, and the dates of service.

b. State the department's intent to use the offset program as provided in department of revenue and finance rules 701—Chapter 150.

c. Require the county to send a written request for review to the division of fiscal management within 30 calendar days of the date of notification if the county disputes the bill.

14.2(2) *Request for administrative review.* The county may request an administrative review by providing to the division of fiscal management within 30 calendar days of the date of the notice of liability a written response that states why the county disagrees with the amount owed. The county shall provide any relevant legal citations, client identifiers, and any additional information supporting the county's position.

14.2(3) *Administrative review.* The division of fiscal management shall review within 30 calendar days of receipt of the written request the basis for the bill and the county's position as stated in the written request for review. The division of fiscal management shall notify the county of the findings of the review in writing within 30 days of receipt of the written request.

a. The division shall make the necessary adjustments to subsequent billings sent to the county when the division agrees with the county's position regarding the liability and shall so notify the county.

b. Any further disputes concerning the amount due shall be addressed when the offset notice is issued pursuant to rule 441—14.4(217,234).

*September 11, 2002, effective date of amendments to 14.1 to 14.6 published in the Iowa Administrative Bulletin on August 7, 2002, as ARC 1839B delayed 70 days by the Administrative Rules Review Committee at its meeting held September 10, 2002.

441—14.3(217,234) List of counties with amounts owed.

14.3(1) *Notification to department of revenue and finance.* The division of fiscal management shall provide to the department of revenue and finance a list of the counties with amounts owed as established through rule 441—14.2(217,234). This list shall be maintained by the department of revenue and finance in a liability file.

14.3(2) *Notification of change.* The division of fiscal management shall notify the department of revenue and finance of any change in the status of a debt in the liability file within 30 calendar days from the occurrence of the change.

14.3(3) *Certification of file.* The division of fiscal management shall certify the file to the department of revenue and finance semiannually in a manner prescribed by the department of revenue and finance.

441—14.4(217,234) Notification to county regarding offset.

14.4(1) *Notice.* The division of fiscal management shall send notification to the county within ten calendar days from the date the department of revenue and finance notifies the division of a potential offset. This notification shall include:

a. The department's right to the payment in question.

b. The department's right to recover the payment through this offset procedure.

c. The basis of the department's case in regard to the debt.

d. The right of the county to request the split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.

e. The county's right to appeal the offset pursuant to 441—Chapter 7. The county shall have 30 days to request an appeal. The request for appeal should include any relevant legal citations and any additional information supporting the county's position.

(1) and (2) Rescinded IAB 8/7/02, effective 9/11/02.

f. The county shall waive any right to appeal if the county fails to respond within 30 calendar days of the date of the notification.

g. The telephone number for the county to contact in the case of questions.

14.4(2) *Copy of notice.* The department of revenue and finance may require a copy of this notice be sent to it.

441—14.5(217,234) Implementing the final decision. When the final decision issued pursuant to rule 441—7.16(17A) upholds the department's action or modifies the amount of offset, the division of fiscal management shall certify to the department of revenue and finance that the requirements for offset under Iowa Code section 421.17 have been met. When the final decision reverses the department's action, the division of fiscal management shall notify the department of revenue and finance to release the offset.

14.5(1) and **14.5(2)** Rescinded IAB 8/7/02, effective 9/11/02.

441—14.6(217,234) Offset completed.

14.6(1) *Offset implemented.* The offset shall be made by the department of revenue and finance as prescribed in department of revenue and finance rules 701—150.6(421) and 150.7(421).

14.6(2) *Notification to county.* Once the offset has been completed, the division of fiscal management shall notify the county of the action taken along with the balance, if any, still due to the department.

14.6(3) *Duty of the department.* The department shall pay to the county any payment offset by the department of revenue and finance to which the department is not entitled, in accordance with established procedures.

These rules are intended to implement Iowa Code sections 217.6 and 234.6.

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*Effective date of amendments to 14.2 to 14.6 delayed 70 days by the Administrative Rules Review Committee at its meeting held September 10, 2002.

40.22(1) Each individual wishing to do so shall have the opportunity to apply for assistance without delay. When the parent is in the home with the child and is not prevented from acting as payee by reason of physical or mental impairment, this parent shall make the application.

40.22(2) An applicant may be assisted by other individuals in the application process; the client may be accompanied by such individuals in contact with the local office, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process.

40.22(3) The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the local office shall send the necessary forms in the next outgoing mail.

40.22(4) A new application is not required when adding a new person to the eligible group or when a parent or a stepparent becomes a member of the household.

40.22(5) Reinstatement.

a. Assistance shall be reinstated without a new application when all necessary information is provided before the effective date of cancellation and eligibility can be reestablished, or the family meets the conditions described at 441—subparagraph 41.30(3)*"d"*(9).

b. Rescinded IAB 7/11/01, effective 9/1/01.

c. When eligibility factors are met, assistance shall be reinstated when a completed Public Assistance Eligibility Report, Form 470-0455 or Form 470-3719(S), or a Review/Recertification Eligibility Document, Form 470-2881, is received by the county office within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned.

d. Rescinded, effective October 1, 1985.

This rule is intended to implement Iowa Code sections 239B.3, 239B.5 and 239B.6.

441—40.23(239B) Date of application. The date of application is the date an identifiable Public Assistance Application, Form 470-0462 or Form 470-0466 (Spanish), is received in any local office. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open. The date of application is also the date an identifiable application is received by a designated worker who is in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided. The hospital, health center or other facility will forward the application to the department office that is responsible for the completion of the eligibility determination. An identifiable application is an application containing a legible name and address that has been signed.

A new application is not required when adding a person to an existing eligible group. This person is considered to be included in the application that established the existing eligible group. However, in these instances, the date of application to add a person is the date the change is reported. When it is reported that a person is anticipated to enter the home, the date of application to add the person shall be the date of the report.

In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the date of application to add the person is the date the person indicated willingness to cooperate.

EXCEPTIONS: When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the date of application to add the person is the date the social security number or proof of application for a social security number is provided.

When adding a person who was previously excluded from the eligible group as described at 441—subrules 41.23(5), 41.25(5) and 46.28(2) and rule 441—46.29(239B), the date of application to add the person is the first day after the period of ineligibility has ended.

When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the date of application to add the person is the date the person signs a family investment agreement.

This rule is intended to implement Iowa Code section 239B.2.

441—40.24(239B) Procedure with application.

40.24(1) The decision with respect to eligibility shall be based primarily on information furnished by the applicant. The applicant shall report no later than at the time of the face-to-face interview any change as defined at 40.27(4)*"e"* which occurs after the application was signed. Any change which occurs after the face-to-face interview shall be reported by the applicant within five days from the date the change occurred.

The county office shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or verification, or refusal by the applicant to authorize the county office to secure the information or verification from other sources, shall serve as a basis for denial of assistance. Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. The county office shall extend the deadline when the applicant requests an extension because the applicant is making every effort to supply the information or verification but is unable to do so. "Supply" shall mean the requested information is received by the department by the specified due date. Any time taken beyond the required time frame shall be considered a delay on the part of the applicant.

a. When an individual is added to an existing eligible group, the five-day requirement for reporting changes shall be waived. These individuals and eligible groups shall be subject to the recipient's ten-day reporting requirement as defined in 40.27(4).

b. Reserved.

40.24(2) In processing an application, the county office or the designated worker as described in rule 441—40.23(239B) who is in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided shall conduct at least one face-to-face interview with the applicant prior to approval of the application for assistance. The worker shall assist the applicant, when requested, in providing information needed to determine eligibility and the amount of assistance. The application process shall include a visit, or visits, to the home of the child and the person with whom the child will live during the time assistance is granted under the following circumstances:

a. When it is the judgment of the worker or the supervisor that a home visit is required to clarify or verify information pertaining to the eligibility requirements; or

b. When the applicant requests a home visit for the purpose of completing a pending application.

When adding an individual to an existing eligible group, the face-to-face interview requirement may be waived.

441—40.28(239B) Referral for investigation. The local office may refer questionable cases to the department of inspections and appeals for further investigation. Referrals shall be made using Form 427-0328, Referral For Front End Investigation.

This rule is intended to implement Iowa Code section 239B.5.

441—40.29(239B) Conversion to the X-PERT system. Rescinded IAB 10/4/00, effective 12/1/00.

These rules are intended to implement Iowa Code chapter 239B.

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CHAPTER 58
EMERGENCY ASSISTANCE PROGRAM

PREAMBLE

This chapter implements the emergency assistance program which is designed to assist families who face homelessness or other types of emergencies. The purpose of the program is to provide financial assistance on behalf of a needy child or children and any other members of the household to meet needs that have been caused by an emergency situation and that they are unable to fulfill. The program provides a means to deal with financial situations that are threatening the health and well-being of an eligible family. It is intended to meet an immediate need which would not otherwise be met. Assistance shall not be denied even if the assistance payment will provide only a temporary resolution to an ongoing problem.

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—58.1 to **58.20** Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—58.1 to 58.11]

441—58.21(234) Definitions.

"Child" means a person under age 18 who has not reached majority through marriage. Emergency assistance shall continue through the month in which the child turns 18. "Child" also means a person aged 18 who is a full-time student in a secondary school or in the equivalent level of vocational or technical training, who is expected to complete the program before reaching 19 and who has not reached majority through marriage. Emergency assistance shall continue through the month in which school or training is completed. In those cases in which the child reaches 19 in the same month as the child completes school or training, emergency assistance shall continue through the month of the child's nineteenth birthday.

"Destitution" means lack of shelter because of an emergency situation.

"Emergency" means, for the purposes of this program, a situation that threatens the family's living arrangements or will result in destitution unless immediate financial assistance is provided.

"Homelessness" means the lack of a fixed and regular nighttime residence or a residence which is:

1. A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter).
2. A halfway house or similar institution that provides temporary residence for persons intended to be institutionalized.
3. A temporary accommodation in the residence of another person.
4. A place not designed for or ordinarily used as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

"Household" means, for the purposes of determining income, resources and household size, the following persons living in the household. The:

1. Applicant.
2. Applicant's legal or common-law spouse.
3. Applicant's child(ren).
4. Legal or biological parent of the child(ren).

5. Applicant's child(ren)'s sibling(s) of whole or half blood or adoptive.

6. Applicant and any child under the care of the applicant when the applicant meets the definition of "relative" as defined at 441—paragraph 41.22(3)*"a."*

Persons temporarily not living with the household at the time of the interview shall not be considered members of the household.

441—58.22(234) General provisions. Emergency assistance is available to families with children (including migrant families), who are faced with a crisis situation causing a threat to the families' living arrangements. Emergency assistance is also available to children who are living on their own but who have been living, within the six months prior to applying for the program, with a relative as defined at 441—paragraph 41.22(3)*"a,"* provided an emergency exists. The program is operated statewide and is funded on a fiscal-year basis (from July through June). When funds are expended prior to the end of the fiscal year, the program will be discontinued until funding is received for the next fiscal year in accordance with rule 441—58.30(234). Emergency assistance is not intended as a substitute for regular assistance grants from an ongoing program but is intended to be the program of last resort when no other sources of assistance are available. Emergency assistance shall also be provided for that portion of an emergency need not covered by benefits from other programs due to those programs' limitations.

441—58.23(234) Application procedures.

58.23(1) *Date of application.* The date of application shall be determined by the date a signed Form 470-2762, Emergency Assistance Application, is received in any local office or department-designated site. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open. To be considered valid, the application must contain a legible name and address and must be signed.

a. The emergency assistance case record must contain a completed application for each 30-day eligibility period. Whenever an initial application is denied, withdrawn, or more than 30 days old, the household shall be required to complete a new application form.

b. At least one face-to-face interview shall be conducted before approval of the application. The face-to-face interview may be held in the county office, at a department-designated site, or in the applicant's home.

(1) The applicant may appoint an authorized representative to attend the interview if the applicant is unable to attend. The authorized representative must be a person knowledgeable of the household's circumstances.

(2) If the applicant or authorized representative fails to attend the required interview, the application shall be denied.

(3) When it is impossible to hold a face-to-face interview within the ten-day time frame for processing applications as described at 58.23(2), the county office or department designee may waive the face-to-face interview and hold a telephone conference instead.

c. The household's declaration shall be accepted except when verification is required by these rules or information appears questionable. The decision with respect to eligibility shall be based largely on information provided by the household.

58.23(2) *Time limits.* Applications shall be processed within ten calendar days from the date of receipt to resolve the household's emergency. The ten-day time standard for approval shall apply except in unusual circumstances, such as when the department and the household have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expires; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

58.23(3) *Additional information required.* When additional information or verification is required, the household shall be requested in writing to provide that information within five calendar days. The written request shall also inform the household that failure to provide the required information within five calendar days or failure to authorize the local office to secure the information from other sources will result in denial of the application. The five-day period begins the day after the date the local office issues the written request.

The five-day time limit to provide additional information shall be extended if the household is unable to obtain the information by the requested date due to circumstances beyond the household's control, such as illness, or the source who is to provide the verification causes a delay, or due to emergencies like fire, flood, etc.

58.23(4) *Basis for decision on application.* The decision with respect to eligibility for emergency assistance shall be made based on the household's circumstances as they exist on the date of the interview.

58.23(5) *Subsequent requests for assistance.* Except for verifying that an emergency exists and applying for benefits from LIHEAP, general relief, or veterans affairs, the household is not required to reverify eligibility factors for approval of additional emergency assistance payment requests made within the 30-day authorization period. The time limits for processing additional requests for assistance remain the same as initial requests.

441—58.24(234) Eligibility requirements. A household, including a migrant household, shall be eligible for emergency assistance when the following conditions are met:

58.24(1) *Existence of an emergency.* An emergency shall exist, limited to eviction, foreclosure, utility shutoff, fuel shortage, loss of heating energy supply or equipment, or homelessness. An emergency does not exist for gas or electricity shutoff when a household is approved for LIHEAP and is protected by the moratorium on disconnection between November 1 and March 31.

a. An emergency also exists when there is a potential for eviction, foreclosure, utility shutoff, fuel shortage, loss of heating energy supply or equipment, or homelessness. For a household to qualify for emergency assistance, the potential emergency shall be expected to happen within the month of application or the following month.

b. The household shall be required to provide proof that an emergency exists. Acceptable verification includes, but is not limited to:

(1) An eviction notice.

(2) A foreclosure notice.

(3) A utility shutoff notice.

(4) A written statement to verify homelessness from the party or shelter where the household is staying.

(5) Other written documentation, as needed.

c. If the amount necessary to resolve the emergency exceeds the $500 maximum payment of the emergency assistance program, the applicant must be able to verify the ability to pay the difference from other resources, or the emergency assistance application shall be denied.

58.24(2) *Income and resources.* The household's available income and resources shall be within the limits as defined at rules 441—58.26(234) and 441—58.27(234).

58.24(3) *Receipt of assistance.* The household shall not have received assistance in Iowa from the program within one year prior to the date the first payment is authorized. The 12-month period begins on the date the first payment is approved. If any household member received emergency assistance within the past 12 months, the entire household is ineligible.

58.24(4) *Child in household.* The household shall contain at least one child who is living with the household.

58.24(5) *Child in need.* To be considered in need, the child shall be destitute or be without living arrangements unless assistance is provided.

a. The child is not in destitution or need if a member of the household (including the child aged 16 or older, who is not attending elementary, secondary or the equivalent level of vocational or technical school full-time) without identified problems with participation of a temporary or incidental nature as described at rule 441—93.133(239B) or barriers to participation as described at rule 441—93.134(239B), in the 30 days before application or subsequent request for emergency assistance:

(1) Refused a job offer or training for employment.

(2) Was dismissed from a job due to the member's own actions which meet the definition of "misconduct" in rule 441—93.132(239B).

(3) Quit employment.

(4) Reduced earnings.

(5) Began participation in a strike.

(6) Chose a limited benefit plan.

b. The 30-day period of ineligibility shall begin the day after the household member reduced earnings or was dismissed from a job.

(1) When a member quits a job, participates in a strike, or refuses employment, each day the job or offer for employment remains available or the household member participates in a strike is considered a day of job refusal. In these situations, the 30-day period of ineligibility shall begin the day the person returns to the job or accepts the job offer or the day after the job or offer for employment is no longer available.

(2) When a person chooses a first limited benefit plan, each day the person fails to reconsider by contacting IM or PROMISE JOBS counts as a day of refusal. The day the person reconsiders begins the 30-day period of ineligibility. When a person chooses a subsequent limited benefit plan, the 30-day ineligibility period shall begin the day after the date on the notice of decision establishing the person's limited benefit plan.

c. Whenever the household is determined to have good cause for refusing employment, quitting employment, or reducing earnings for the family investment program, no further determination is required for the emergency assistance program. Verification of the circumstances resulting in refusal, loss, or reduction of employment is not required unless information provided appears questionable.

58.24(6) *Application for other benefits.* The household shall apply for and accept benefits for which the household may be qualified from the energy assistance, county general relief and veteran's affairs programs before approval for emergency assistance.

a. Verification that the household has met the requirements of first seeking assistance from these programs shall be documented on Form 470-2804, Disposition of Application for Other Benefits. A separate form shall be completed for each program to which the applicant is referred.

b. Emergency assistance benefits shall not be approved while an application for other benefits is pending.

c. If a household is denied general relief within 30 days before emergency assistance application, and the denial was due to failure to work off past general relief assistance, emergency assistance shall also be denied.

58.24(7) *Citizenship and alienage.* The household shall contain at least one child who meets citizenship and alienage requirements as defined at 441—subrule 41.23(5). The household shall verify the alien status of at least one child to determine if the household contains an eligible child. There is no need to reverify the alien status unless it is subject to change.

58.24(8) *Utility service connection.* Applicants shall provide verification from the utility company that all requirements to provide service have been met before payment to the utility company for utility deposits for new or reconnected service will be approved. When a household applies for emergency assistance due to a disconnect notice, the household must provide verification from the utility company that the applicant either has signed a payment plan or is not eligible for a payment plan. Failure to provide this verification shall result in denial of the emergency assistance application.

441—58.25(234) Determination of need. Needs covered are limited to rent payments, house payments (including property taxes and homeowner's insurance if included in the house payment), rent and utility deposits, utilities, and purchase, repair, or rental of heating equipment. Utilities shall include heat (electric, gas, fuel oil, wood, etc.), lights, water, sewer, and garbage, but shall not include telephone. Heating equipment shall include, but is not limited to, furnace, space heater, kerosene heater, wood stove, etc. Air conditioners shall not be funded.

441—58.26(234) Income. The household's nonexempt gross income, with the exception of the deductions specified at subrule 58.26(2), shall not exceed 100 percent of the poverty level of the Office of Management and Budget (OMB). Changes in OMB's poverty guidelines shall go into effect the second month after the changes are published. When determining income and household size, the household shall be determined as defined in rule 441—58.21(234). All income reported by the household shall be verified.

58.26(1) *Income considered.* Income considered shall include, but is not limited to, all gross income received or reasonably anticipated to be received by the household in the month of application, such as the family investment program (FIP) grant, veteran's pension, social security benefits, supplemental security income (SSI), job insurance benefits, child support income, alimony, workers' compensation benefits, cash payments from any of the DHS diversion programs, adoption subsidies, foster care payments, retroactive payments from any source, lump-sum income, earnings from on-the-job training, work-study income, income tax refunds (if received in the month of application), loans and grants available for living expenses (including unprorated gross educational moneys received in the month of application that are not earmarked), interest income (if received in the month of application), maintenance payments, Volunteers in Service to America (VISTA) payments, gifts, refunds from rental and utility deposits, earned income credit, self-employment income (net profit expected to be received in the month of application, not annualized), earnings from employment, and earnings of a child aged 16 or over who is not attending elementary, secondary or the equivalent of vocational or technical school full-time. The following deductions shall be allowed from earned income:

a. The actual, verified amount of employment-related, nonreimbursed child care expenses incurred or reasonably expected to be incurred in the month of application. A child care deduction shall also be allowed for VISTA volunteers.

b. Allowable business expenses in a self-employment enterprise, as defined at 441—subrule 41.27(2).

58.26(2) *Exempt income.* Exempt income shall include reimbursements; earned as well as unearned income in-kind; vendor payments; earnings of a child under age 16, or age 16 or older, if the child is attending elementary, secondary or the equivalent level of vocational or technical training school full-time; training allowances designated for a specific purpose (such as those issued by the Workforce Investment Act, PROMISE JOBS, Vocational Rehabilitation Services, Food Stamp Employment and Training program, etc.); that amount of the lump sum expended for legal, medical or burial expenses; and legally obligated moneys. Legally obligated money means money that is otherwise payable to the household, but which is diverted by the provider of the payment to a third party for a household expense without the household's consent. Examples of legally obligated moneys are the amount withheld from job insurance benefits to recover an overpayment or for child support for a child not living with the household; or the amount of child support withheld from earnings for a child not living with the household.

58.26(3) *Exempt as income and resources.* Deposits into an individual development account (IDA) are exempt. The amount of the deposit is exempt as income and shall not be used in the 100 percent of poverty level eligibility test. The deposit must be deducted from nonexempt earned and unearned income that the client receives in the month of application, provided the deposit is made in the month of application. To allow a deduction, verification of the deposit must be provided within five calendar days as described in subrule 58.23(3). The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions described in 58.26(1)*"a"* and *"b"* shall be applied to earnings from employment or net profit from self-employment that remains after deducting the amount deposited into the account. If the client has both earned and unearned income, the amount deposited into the IDA shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.

441—58.27(234) Resources. The household's liquid resources shall not exceed $1000. Liquid resources are limited to cash on hand, money in checking, savings or credit union accounts, and savings certificates, with the following exceptions: The balance in an individual development account (IDA), including interest earned on the IDA, is exempt as a resource. Income in any given month is not counted as a resource in the same month. When liquid resources are owned by more than one person, unless otherwise established, it is assumed that all persons hold equal shares in the resources. When determining countable resources, the household shall be determined as defined in rule 441—58.21(234). All other resources are exempt. The household's declaration of the amount of liquid resources shall be accepted unless the declaration appears questionable or the amount declared is close to the resource limitation. The household is not required to apply its available resources toward the emergency as long as the resources are within the prescribed limits.

441—58.28(234) Payment.

58.28(1) *Maximum payment.* The maximum payment shall not exceed $500 per authorization period. This amount can be applied to a single need or to several needs, not to exceed the maximum amount. Payment shall be issued in the amount of the need, not to exceed $500. When the emergency need is greater than $500 (or more than the maximum amount still available to the applicant, if a subsequent request is being made), emergency assistance shall be approved only when the applicant provides verification that either:

a. The vendor will accept payment of up to $500 (or the maximum amount available) to resolve the emergency, or

b. Another source will supply the amount needed over and above the emergency assistance payment amount.

58.28(2) *Vendor payment.* Payment shall be issued directly to the vendor in form of a state warrant unless the vendor is a state employee.

a. Vendors shall be required to complete Form 470-2781, Approval for Vendor Payment, before payment shall be issued. The vendor shall provide a copy of IRS Form W-9, Request for Taxpayer Identification Number and Certification, if necessary, to resolve vendor name or vendor number discrepancies.

b. Form 470-2781 shall also be used to notify the vendor of the amount approved for payment. Payment is owed to the vendor in the amount approved on Form 470-2781 even if emergency assistance funds are exhausted or emergency assistance eligibility is found not to exist when system entries are made. If the household provides verification of an emergency item and the cost of the item on another document, there is no need to send Form 470-2781 to the vendor to reverify the information.

c. Payment to state employees shall be made as follows:

(1) If the emergency assistance payment is for a service, such as furnace repair, the payment is included in the vendor's regular state paycheck as extra pay.

(2) If the emergency assistance payment is for goods, such as rent, rent deposit, or purchase of heating equipment, payment to the vendor is processed in the form of a travel voucher.

58.28(3) *Authorization period.* The authorization period is limited to a period of 30 consecutive days in a 12-month period, and payment shall be approved if the request is received within that period. The 30-day authorization period begins on the date the first emergency assistance payment is approved for an eligible household. The household may be eligible for more than one payment as long as the total amount of all payments does not exceed the maximum amount and all requests for additional payments are received within the period of 30 consecutive days. Any portion of the maximum payment amount not used in the 30-day authorization period cannot be carried forward to a future authorization period.

58.28(4) *Returned warrants and donations to emergency assistance.* Any refunds of emergency assistance money shall be returned to the DHS county office. Returned funds shall be deposited back into the emergency assistance account.

a. When an emergency assistance client or vendor returns the emergency assistance warrant or returns an emergency assistance payment in the form of a money order, personal check, or cash, the county office shall accept the repayment and complete Form 470-0009, Official Receipt.

b. The department may receive refunds of rent deposits that were paid on behalf of emergency assistance clients by a combination of assistance from the emergency assistance program and other persons or organizations.

c. Donations shall be handled in the same manner as refunds and shall be deposited into the emergency assistance account.

58.28(5) *Misdirected warrants.* Replacement of an emergency assistance warrant does not apply when the warrant is inadvertently delivered to the emergency assistance client rather than the vendor, and the client endorses it with the client's own name and cashes it. This is not an overpayment, because the warrant is issued on behalf of the same client who cashed it. It is up to the vendor to pursue the matter with the post office, the place of business that cashed the warrant, or the client and to work out possible repayment arrangements.

441—58.29(234) Notification and appeals. All emergency assistance households shall be given notice with respect to the decision on their application for assistance in accordance with 441—subrule 7.7(1). Households have the right to appeal the department's decision in accordance with rule 441—7.5(17A).

441—58.30(234) Discontinuance of the emergency assistance program. The program shall be discontinued when funds have been exhausted. To ensure equitable treatment, applications for emergency assistance shall be approved on a first-come, first-served basis until all funds have been depleted. First-come, first-served is determined by the date the application is approved for payment and entered into the emergency assistance computer system.

58.30(1) *Partial payment.* Because funds are limited, applications may be approved for less than the amount requested. Payment cannot be approved beyond the amount of funds available.

58.30(2) *Reserved funds.* A portion of yearly emergency assistance funds shall be reserved for final appeal decisions reversing the department's denial that are received after funds for the program have run out.

58.30(3) *Untimely applications.* Emergency assistance applications received after the program is discontinued for the year and more than five working days before the program begins again the next year shall be denied.

441—58.31(234) Special information received from emergency assistance clients. Rescinded IAB 10/2/02, effective 10/1/02.

These rules are intended to implement Iowa Code section 234.6.

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CHAPTER 59
UNEMPLOYED PARENT WORKFARE PROGRAM

[Prior to 7/1/83, Social Services[770] Ch 59]

Rescinded, effective 7/1/89; see 441—Chapter 93

TITLE VII
FOOD STAMP PROGRAM

CHAPTER 65
ADMINISTRATION

[Prior to 7/1/83, Social Services[770] Ch 65]
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

The basis for the food stamp program is as provided in Title 7 of the Code of Federal Regulations. The purpose of this chapter is to provide for adoption of new and amended federal regulations as they are published, to establish a legal basis for Iowa's choice of administrative options when administrative options are given to the state in federal regulations, to implement the policy changes that the United States Department of Agriculture (USDA) directs states to implement that are required by law but are not yet included in federal regulations, and to implement USDA-approved demonstration projects and waivers of federal regulations.

DIVISION I

441—65.1(234) Definitions.

"Constant unearned income" means nonexempt unearned income which is expected to be received regularly and is not expected to change, in source or amount, more often than annually. Time-limited benefits, such as job insurance benefits, are not considered to be constant unearned income.

"Notice of expiration" means either a message printed on an application for continued program participation, Review/Recertification Eligibility Document (RRED), Form 470-2881, which is automatically issued to the household, or a hand-issued Form 470-0325, Notice of Expiration.

"Parent" means natural, legal, or stepmother or stepfather.

"Recent work history" means that in either of the two calendar months before the budget month the person received income of over $75 from employment unless the person is a child whose earnings are exempt.

"Report month" for retrospective budgeting means the calendar month following the budget month.

"Sibling" means biological, legal, step- , half- , or adoptive brother or sister.

"Suspension" means a month in which a benefit issuance is not made due to retrospective gross or net income that exceeds program limits, when eligibility for benefit issuance is expected to exist for the following month.

441—65.2(234) Application. Persons in need of food stamps may file an application at any local department office in Iowa. An application is filed the day a food stamp office receives an application for food stamps on Form 470-0306 or 470-0307 (Spanish), Application for Food Stamps, or Form 470-0462 or Form 470-0466 (Spanish), Public Assistance Application, containing the applicant's name and address which is signed by either a responsible member of the household or the household's authorized representative. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open. A household shall complete a Public Assistance Application when any person in the household is applying for or receiving aid through the family investment program, family medical assistance program (FMAP)-related Medicaid, or the refugee resettlement assistance programs. The application is complete when a completed Form 470-0306, 470-0307, 470-0462, or 470-0466 is submitted.

Households receiving food stamps without a change of administrative area may apply for continued participation by submitting Form 470-2881, Review/Recertification Eligibility Document.

65.2(1) *Failure to appear for interview.* Rescinded IAB 5/2/01, effective 6/1/01.

65.2(2) *Failure to provide verification.* When a household files an initial application and the department requests additional verification, the applicant shall have ten days to provide the requested verification. If the applicant fails to provide the verification within ten days, the department may deny the application immediately. If the applicant provides the department with the requested verification prior to the thirtieth day from the date of application, the department shall reopen the case and provide benefits from the date of application. If the household provides the verification in the second 30 days after the date of the application, the department shall reopen the case and provide benefits from the date the verification was provided.

441—65.3(234) Administration of program. The food stamp program shall be administered in accordance with the Food Stamp Act of 1977, 7 U.S.C. 2011 et seq., and in accordance with federal regulation, Title 7, Parts 270 through 283 as amended to June 1, 2001.

A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the Division of Financial, Health, and Work Supports, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, (515)281-3133.

This rule is intended to implement Iowa Code section 234.12.

441—65.4(234) Issuance. All food stamp coupons are issued by direct mail except for exchange for improperly manufactured or mutilated coupons and exchange of old series coupons for new series coupons. Exchanged coupons are issued over the counter by local offices. Food stamp recipients may choose to receive and use their benefits by electronic benefit transfer (EBT) instead of food stamp coupons in counties where this option is available. Where the option of EBT issuance is available and the household chooses this option, expedited food stamp benefits shall be issued by EBT. Food stamp benefits for ongoing certifications are mailed or are otherwise made available to the household on a staggered basis during the first 15 days of each month.

65.4(1) When persons reside in counties in which a local or area office is located and have coupons replaced as a result of a mail loss for one month, the coupons shall be mailed to the local or area office in the county in which the persons reside for six months. When persons reside in counties in which a local or area office is not located and have coupons replaced as a result of a mail loss for two months in a six-month period, the coupons shall be mailed to the local or area office to which that county's satellite office is directly assigned for six months except when the mail loss occurs because of the department's failure to mail to the address specified by the household. When a change of mailing address is reported, the old address becomes the wrong address as of the date of the report.

65.4(2) When a household reports a shortage in its mail issuance, the household shall present the coupon books received to the local food stamp office where the case is assigned for examination.

65.4(3) When a household presents $200 or more of old series coupons to be exchanged for new series coupons, the household shall sign a statement that the coupons were validly purchased by the household, telling the approximate dates of purchase, and giving the reasons for the accumulation and the delay in presenting them for exchange.

65.4(4) When a household meets the residency requirements of the food stamp program within the state of Iowa and is eligible for direct mailing, the household may have the coupon allotment sent to any mailing address within the state or to a community or mailing address which does not exceed ten miles beyond the legal boundaries of the state.

65.4(5) Notwithstanding anything to the contrary in these rules or regulations, households applying for initial months' benefits after the fifteenth day of the month and eligible for expedited services who are determined eligible for the initial month and the next subsequent month shall receive their prorated initial month expedited allotment and their first full month's allotment at the same time.

441—65.5(234) Hotline. Rescinded IAB 10/30/91, effective 1/1/92.

441—65.6(234) Delays in certification.

65.6(1) When by the thirtieth day after the date of application the agency cannot take any further action on the application due to the fault of the household, the agency shall give the household an additional 30 days to take the required action. The agency shall send the household a notice of pending status on the thirtieth day.

65.6(2) When there is a delay beyond 60 days from the date of application and the agency is at fault and the application is complete enough to determine eligibility, the application shall be processed. For subsequent months of certification, the agency may require a new application form to be completed when household circumstance indicates changes have occurred or will occur.

65.6(3) When there is a delay beyond 60 days from the date of application and the agency is at fault and the application is not complete enough to determine eligibility, the application shall be denied. The household shall be notified to file a new application and that it may be entitled to retroactive benefits.

441—65.7(234) Expedited service. Rescinded IAB 5/2/01, effective 6/1/01.

441—65.8(234) Deductions.

65.8(1) *Standard allowance for households with heating or air-conditioning expenses.* When a household is receiving heating or air-conditioning service for which it is required to pay all or part of the expense or receives assistance under the Low-Income Home Energy Assistance Act (LIHEAA) of 1981, the heating or air-conditioning standard shall be allowed.

a. The standard allowance for utilities which include heating or air-conditioning costs is a single utility standard. This standard is $202 effective August 1, 1991.

b. Beginning October 1, 1992, this allowance shall change annually effective each October 1 using the percent increase reported in the consumer price index monthly periodical for January for fuels and other utilities for the average percent increases for the prior year for all urban consumers United States city average. Any numeral after the second digit following the decimal point will be dropped in this calculation. Any decimal amount of .49 or under will be rounded down. Any decimal of .50 or more will be rounded up to the nearest dollar. The cent amount will be included when calculating the next year's increase.

65.8(2) *Heating expense.* Heating expense is the cost of fuel for the primary heating service normally used by the household.

65.8(3) *Telephone standard.* When a household is receiving telephone service for which it is required to pay and the household is not entitled or chooses not to receive a single standard allowance, a standard allowance shall be allowed. This standard shall be $18 effective August 1, 1991. Beginning October 1, 1992, this allowance shall change annually effective each October 1 using the percent increase reported in the consumer price index monthly periodical for January for telephone service for the average percent increases for the prior year for all urban consumers United States city average. Any numeral after the second digit following the decimal point will be dropped in this calculation. Any decimal amount of .49 or under will be rounded down. Any decimal of .50 or more will be rounded up to the nearest dollar. The cent amount will be included when calculating the next year's increase.

65.8(4) *Energy assistance payments.* For purposes of prorating the low income energy assistance payments to determine if households have incurred out-of-pocket expenses for utilities, the heating period shall consist of the months from October through March.

65.8(5) *Standard allowance for households without heating or air-conditioning expenses.* When a household is receiving some utility service other than heating or air-conditioning for which it is responsible to pay all or part of the expense, the nonheating or air-conditioning standard shall be allowed. These utility expenses cannot be solely for telephone.

a. This standard is $103 effective August 1, 1991.

b. Beginning October 1, 1992, this allowance shall change annually effective each October 1 using the percent increase reported in the consumer price index monthly periodical for January for electric service for the average percent increases for the prior year for all urban consumers United States city average. Any numeral after the second digit following the decimal point will be dropped in this calculation. Any decimal amount of .49 or under will be rounded down. Any decimal of .50 or more will be rounded up to the nearest dollar. The cent amount will be included when calculating the next year's increase.

65.8(6) *Excluded payments.* A utility expense which is reimbursed or paid by an excluded payment, including HUD or FmHA utility reimbursements, shall not be deductible.

65.8(7) *Excess medical expense deduction.* Notwithstanding anything to the contrary in these rules or regulations, at certification, households having a member eligible for the excess medical expense deduction shall be allowed to provide a reasonable estimate of the member's medical expenses anticipated to occur during the household's certification period. The estimate may be based on available information about the member's medical condition, public or private medical insurance coverage, and current verified medical expenses. Households giving an estimate shall not be required to report or verify changes in medical expenses that were anticipated to occur during the certification period.

65.8(8) *Child support payment deduction.* Rescinded IAB 5/2/01, effective 6/1/01.

65.8(9) *Standard deduction.* Each household will receive a standard deduction from income equal to 8.31 percent of the net income limit for food stamp eligibility. No household will receive an amount less than $134 or more than 8.31 percent of the net income limit for a household of six members.

65.8(10) *Sharing utility standards.* Rescinded IAB 9/4/02, effective 10/1/02.

65.8(11) *Excess shelter cap.* Rescinded IAB 5/2/01, effective 6/1/01.

This rule is intended to implement Iowa Code section 234.12.

441—65.9(234) Treatment centers and group living arrangements. Alcoholic or drug treatment or rehabilitation centers and group living arrangements shall complete Form 470-2724, Monthly Facility Food Stamp Report for Drug or Alcohol Treatment Centers or Group Living Arrangements, on a monthly basis and return the form to the local food stamp office where the center is assigned.

Notwithstanding anything to the contrary in these rules or regulations, disabled persons as defined in 7 CFR 271.2, as amended to December 4, 1991, residing in certain group living arrangements are eligible to receive and use food stamps to purchase their prepared meals.

These group living arrangements are public or private nonprofit residential settings that serve no more than 16 residents that are certified by the appropriate agency or agencies of the state under regulations issued under Section 1616(e) of the Social Security Act or under standards determined by the secretary to be comparable to standards implemented by appropriate state agencies under Section 1616(e) of the Social Security Act.

441—65.10(234) Reporting changes. Households may report changes on the Change Report Form, 470-0321 or 470-0322 (Spanish). Households are supplied with this form at the time of initial certification, at the time of recertification whenever the household needs a new form, whenever a form is returned by the household, and upon request by the household.

Households which are exempt from filing a monthly report must report a change in total household gross earned income of more than $100 per month.

441—65.11(234) Discrimination complaint. Individuals who feel that they have been subject to discrimination may file a written complaint with the Affirmative Action Office, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319.

441—65.12(234) Appeals. Fair hearings and appeals are provided according to the department's rules, 441—Chapter 7.

441—65.13(234) Joint processing.

65.13(1) *SSI/food stamps.* The department will handle joint processing of supplemental security income and food stamp applications by having the social security administration complete and forward food stamp applications.

65.13(2) *Public assistance/food stamps.* The department shall jointly process public assistance and food stamp applications.

65.13(3) *Single interview for public assistance/food stamps.* In joint processing of public assistance and food stamp applications, the department shall conduct a single interview at initial application for both public assistance and food stamp purposes.

441—65.14(234) Rescinded, effective 10/1/83.

441—65.15(234) Proration of benefits. Benefits shall be prorated using a 30-day month.

This rule is intended to implement Iowa Code section 234.12.

441—65.16(234) Complaint system. Clients wishing to file a formal written complaint concerning the food stamp program may submit Form 470-0323, or 470-0327 (Spanish), Food Stamp Complaint, to the office of field support. Department staff shall encourage clients to use the form.

441—65.17(234) Involvement in a strike. An individual is not involved in a strike at the individual's place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The regional administrator shall determine whether such a risk to the individual's physical or emotional well-being exists.

441—65.18(234) Rescinded, effective 8/1/86.

441—65.19(234) Monthly reporting/retrospective budgeting.

65.19(1) *Budgeting cycle.* Retrospective budgeting will base benefit calculation on the budget month which is the second calendar month preceding the issuance month.

65.19(2) *Reporting responsibilities of monthly reporting households.*

a. The department will supply the Public Assistance Eligibility Report, Form 470-0454 (computer issued), 470-0455 (manually issued), or 470-3719 (Spanish, manually issued) to the recipient as needed or requested. The department shall provide a postage-paid envelope for return of the Public Assistance Eligibility Report.

b. Households shall return the completed form to the local food stamp office where the case is assigned by the fifth calendar day of the month which precedes the issuance month, when the form was issued in the department's regular end-of-month mailing. Households shall return the completed form to the local food stamp office where the case is assigned by the seventh day after the date of the issuance of the form when the form was not issued in the department's regular end-of-month mailing.

c. Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, accompanied by verification as required in 65.19(14), and signed and dated by a responsible household member on or after the last day of the budget month. When the Public Assistance Eligibility Report is used and a person in the household is also required to report monthly for another public assistance program, the form shall also be signed by all individuals required to sign for that program to be considered complete.

65.19(3) *Determination of eligibility.* Eligibility will be determined on the basis of the household's prospective income and circumstances.

65.19(4) *Public assistance income.* The department shall consider family investment program and refugee cash assistance grants authorized for the issuance month in determining the household's eligibility and benefit level. The department shall count adjustive or corrective public assistance payments retrospectively.

65.19(5) *Suspension.* Suspension is not limited to households with a periodic increase in recurring income. Suspension may not occur for two consecutive months.

65.19(6) *Households required to submit monthly reports.* The following households must return monthly reports, unless exempted by federal regulation:

a. Households required to submit family investment program monthly reports.

b. Households with one or more members who have a recent work history.

c. Households with one or more members receiving countable unearned income which is not constant except when one or more of the following apply:

(1) The income is from job insurance benefits.

(2) The income is from educational income such as grants, scholarships, educational loans, fellowships or veterans' educational benefits.

(3) The income is from interest.

(4) The income is from occasional general assistance payments.

d. Households with one or more members receiving countable earned income except when one or more of the following apply:

(1) The earned income of each person is $75 or less per month.

(2) The earned income is annualized self-employment income.

(3) The only source of earned income of a person receiving Supplemental Security Income (SSI) or Social Security Disability is from a sheltered workshop program.

65.19(7) *Entering or leaving monthly reporting or a budgeting method due to a change in status.* Notwithstanding anything to the contrary in these rules or regulations, a monthly report will be required for the budget month after the month the household reported a status change. Retrospective budgeting will begin in the month after the household reported the status change.

The department shall notify households who become exempt from monthly reporting within ten days of the date the department becomes aware of the change. This notification shall inform the household that they no longer have to file future monthly reports and will tell them when the change in budgeting, if any, will occur. Prospective budgeting will begin the first issuance month the client does not submit a monthly report.

The department shall change the budgeting method of households who must report changes in ten days no later than the next month following the ten-day period for the worker to act and timely notice requirements.

65.19(8) *Prospective beginning months.* The department shall calculate benefits for eligible households prospectively for the two beginning months. When a household has applied for assistance from the family investment program or the refugee resettlement cash assistance program, and for food stamp benefits using Form 470-0462 or 470-0466 (Spanish), Public Assistance Application, the department shall allow a third food stamp beginning month. The department shall allow a third beginning month when the public assistance program's first "initial month" is the same calendar month as the second food stamp beginning month, and the third beginning month permits a simultaneous transition to retrospective budgeting.

65.19(9) *Disregarded income for the first months of retrospective budgeting.* Income considered prospectively for new household members or in the beginning months and not expected to continue shall not be considered again.

65.19(10) *Action on reported changes.* The agency will act on all reported changes for households required to submit monthly reports.

65.19(11) *Actual or converted income.* Calculation of benefits for households required to submit monthly reports will consider the actual income received or anticipated to be received in the budget month unless the income is annualized or prorated. Calculation of benefits for households not required to monthly report will use the actual or converted amount of income received on a weekly or biweekly basis for that benefit month.

65.19(12) *Mailing of notices.* All individual household notices of benefit amounts will be mailed separately from food stamps.

65.19(13) *Reinstatement.* Reinstatement of the household canceled for failure to submit a complete monthly report will occur only when the otherwise eligible household submits a complete report by the end of the report month or by the extended filing date, whichever is later.

65.19(14) *Verification of income.* Notwithstanding anything to the contrary in these rules or regulations, a monthly report will be considered incomplete when it is not accompanied by verification of:

a. Gross nonexempt earned income, including when this earned income starts or stops.

b. Unearned income or prorated income or annualized income when this income starts, stops, or changes in amount. Verification of interest income, with a monthly report, is not required.

65.19(15) *Return of verification.* The agency will return all items of verification, submitted in the monthly reporting process, to the household.

65.19(16) *Notice regarding reinstatement.* The household which has received a Notice of Cancellation, Form 4107-0, shall be notified in writing of its status every time the department receives a monthly report form prior to the end of the "report month," or the extended filing period, whichever is later.

65.29(3) *Exclusion of income from 2000 census employment.* Rescinded IAB 9/4/02, effective 10/1/02.

65.29(4) *Interest income for retrospectively budgeted cases.* Prorate interest income by dividing the amount anticipated during the certification period by the number of months in the certification period.

65.29(5) *Social security plans for achieving self-support (PASS).* Notwithstanding anything to the contrary in these rules or regulations, exclude income amounts necessary for fulfillment of a plan for achieving self-support (PASS) under Title XVI of the Social Security Act.

65.29(6) *Student income.* In determining eligibility, the department shall exclude educational income, including any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like excluded under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

a. Notwithstanding anything to the contrary in these rules or regulations, the department shall exclude educational income based on amounts earmarked by the institution, school, program, or other grantor as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation and miscellaneous personal expenses (other than living expenses).

b. If the institution, school, program, or other grantor does not earmark amounts made available for the allowable costs involved, students shall receive an exclusion from educational income for educational assistance verified by the student as used for the allowable costs involved. Students can also verify the allowable costs involved when amounts earmarked are less than amounts that would be excluded by a strict earmarking policy.

c. For the purpose of this rule, mandatory fees include the rental or purchase of equipment, materials and supplies related to the course of study involved.

65.29(7) *Elementary and high school student income.* Rescinded IAB 5/2/01, effective 6/1/01.

65.29(8) *Vendor payments.* Rescinded IAB 5/2/01, effective 6/1/01.

65.29(9) *HUD or FmHA utility reimbursement.* Rescinded IAB 5/2/01, effective 6/1/01.

65.29(10) *Welfare reform and regular household honorarium income.* All moneys paid to a food stamp household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.

65.29(11) *Income of ineligible aliens.* The department shall use all but a pro-rata share of ineligible aliens' income and deductible expenses to determine eligibility and benefits of any remaining household members.

441—65.30(234) Resources.

65.30(1) *Jointly held resources.* When property is jointly held it shall be assumed that each person owns an equal share unless the intent of the persons holding the property can be otherwise established.

65.30(2) *Limit for households with a disabled person.* The resource limit for a household that includes a disabled person is $3000.

65.30(3) *Resources of SSI and FIP household members.* Notwithstanding anything to the contrary in these rules or regulations, all resources of SSI or FIP recipients are excluded. For food stamp purposes, those members' resources, if identified, cannot be included when a household's total resources are calculated.

65.30(4) *Earned income tax credits.* Notwithstanding anything to the contrary in these rules or regulations, earned income tax credits (EITC) shall be excluded from consideration as a resource for 12 months from the date of receipt if the person receiving the EITC was participating in the food stamp program at the time the credits were received, and participated continuously during the 12-month period.

65.30(5) *Student income.* Exclude from resources any income excluded by subrule 65.29(6).

441—65.31(234) Homeless meal providers. When a local office of the department is notified that an establishment or shelter has applied to be able to accept food stamps for homeless persons, staff shall obtain a written statement from the establishment or shelter. The statement must contain information on how often meals are served by the establishment or shelter, the approximate number of meals served per month, and a statement that the establishment or shelter does serve meals to homeless persons. This information must be dated and signed by a person in charge of the administration of the establishment or shelter and give the person's title or function with the establishment.

The establishment or shelter shall cooperate with agency staff in the determination of whether or not meals are served to the homeless.

441—65.32(234) Basis for food stamp allotments. Rescinded IAB 5/2/01, effective 6/1/01.

441—65.33(234) Maximum monthly dependent care deduction. Notwithstanding anything to the contrary in these rules or regulations, the maximum monthly dependent care deduction households shall be granted is $200 for each child under two years of age and $175 for each other dependent.

441—65.34(234) Exclusion of advance earned income tax credit payments from income. Rescinded IAB 10/30/91, effective 1/1/92.

441—65.35(234) Migrant and seasonal farm worker households. Rescinded IAB 10/30/91, effective 1/1/92.

441—65.36(234) Electronic benefit transfer (EBT) of food stamp benefits.

65.36(1) *Liability for unauthorized use of food stamp EBT benefits.* The department shall not replace EBT benefits that are lost or stolen after being credited to that household's food stamp account unless the loss occurs after the time the household reports the loss, theft, or compromise of their EBT card or PIN to the department or the electronic funds transfer (EFT) network. The food stamp household is liable for unauthorized use of its EBT card that occurs prior to the time the household reports the loss.

65.36(2) *EBT state guarantee.* In the event that the EBT point of sale (POS) system is inoperable, and the household has incurred an expense using a manual voucher against its food stamp account for eligible food items exceeding the balance in their food stamp account, the state shall pay the retailer the balance in that account. In addition, if the balance of the household's food stamp account is less than $40, the state will pay the retailer the difference between $40 and the balance in the account, up to the amount of the purchase, so that the total payment from food stamp benefits and state guarantee does not exceed $40. Payment will not be made for more than one manual voucher transaction for a cardholder at the same retail establishment in one day.

65.36(3) *Repayment of EBT state guarantee.* All adult household members are jointly and severally liable for any payment made by the department to a retailer on behalf of the household to cover eligible food purchases in excess of the amount in the household's food stamp EBT account. Collection will follow procedures utilized for inadvertent household error claims.

65.36(4) *Reversal.* A transaction for an authorized food purchase erroneously taken from a family investment program (FIP) EBT account instead of the food stamp EBT account, discovered after a correction can be made by the retailer, may be reversed upon the household's request under the conditions that:

a. The request for reversal must be made by the household to the local office where the case is assigned within ten days of the purchase.

b. The EBT Account Adjustment Request, Form 470-2574, must be completed and signed by the household within ten days of the request.

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CHAPTERS 66 to 70
Reserved

CHAPTER 71
EMERGENCY FOOD DISTRIBUTION PROGRAM
Rescinded, effective 11/1/86

CHAPTER 72
EMERGENCY FOOD AND SHELTER PROGRAM
Rescinded, effective 11/1/86

CHAPTER 76
APPLICATION AND INVESTIGATION

[Ch 76, 1973 IDR, renumbered as Ch 911]
[Prior to 7/1/83, Social Services[770] Ch 76]
[Prior to 2/11/87, Human Services[498]]

441—76.1(249A) Application. An application for family medical assistance-related Medicaid programs shall be submitted on the Public Assistance Application, Form 470-0462 or Form 470-0466 (Spanish), the Health Services Application, Form 470-2927, or the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, and the Supplement to the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3564. The Health Services Application, Form 470-2927, shall be used for persons applying for assistance under the medically needy program as provided at 441—subrule 75.1(35).

An application for SSI-related Medicaid shall be submitted on the Health Services Application, Form 470-2927. The Health Services Application, Form 470-2927, shall be used for persons applying for assistance under the medically needy program as provided at 441—subrule 75.1(35).

A person who is a recipient of supplemental security income (SSI) benefits shall not be required to complete a separate Medicaid application. If the county office does not have all information necessary to establish that an SSI recipient meets all Medicaid eligibility requirements, the SSI recipient may be required to complete Form 470-2304 or 470-0364, Medicaid Information Questionnaire for SSI Persons, and may be required to attend an interview to clarify information on this form.

An application for Medicaid for persons in foster care shall be submitted on Form 470-2927, Health Services Application.

76.1(1) *Place of filing.* An application may be filed in any local office of the department or in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided. The hospital, health center, or facility shall forward the application to the department office responsible for completing the eligibility determination.

a. The Health Services Application, Form 470-2927 or Form 470-2927(S), may also be filed at the office of a qualified provider of presumptive Medicaid eligibility, a WIC office, a maternal health clinic, or a well child clinic. The office or clinic shall forward the application within two working days to the department office responsible for completing the eligibility determination.

b. The Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, shall be filed with the third-party administrator as provided at 441—subrule 86.3(3). If it appears that the family is Medicaid-eligible, the third-party administrator shall forward the application to the department office responsible for determining Medicaid eligibility.

c. Those persons eligible for supplemental security income and those who would be eligible if living outside a medical institution may make application at the social security district office.

76.1(2) *Date and method of filing application.* An application is considered filed on the date an identifiable application, Form 470-0462, 470-0466 (Spanish), 470-2927, or 470-2927(S), is received and date-stamped: (1) in any local office of the department, or (2) by a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided, or (3) by the third-party administrator who has contracted with the department to administer the healthy and well kids in Iowa (HAWK-I) program as provided at 441—Chapter 86.

a. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open.

b. An identifiable application, Form 470-2927 or 470-2927(S), which is filed to apply for FMAP or FMAP-related Medicaid at a WIC office, well child health clinic, maternal health clinic, or the office of a qualified provider for presumptive eligibility, shall be considered filed on the date received and date-stamped in one of these offices.

c. When a Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, is filed with the third-party administrator and subsequently referred to the department for a Medicaid eligibility determination, the date the application is received and date-stamped by the third-party administrator shall be the filing date.

d. A faxed application is considered filed on the date the faxed application is received in one of the places described above, if the fax is received when the office is open. If the fax is received when the office is closed, the faxed application shall be considered received on the first day that is not a weekend or state holiday following the day that the office was last open. Before the faxed application can be approved, the original application with the applicant's original signature must be received by the department.

e. An identifiable application is an application containing a legible name, address, and signature.

f. If an authorized representative signed the application on behalf of an applicant, the original signature of the applicant or the responsible person must be on the application before the application can be approved. For FMAP and FMAP-related Medicaid, the original signature of each and every parent or stepparent in the home must be on the application before the application can be approved.

76.1(3) *Applicant cooperation.* An applicant must cooperate with the department in the application process which may include providing information or verification, attending a required face-to-face interview or signing documents. Failure to cooperate with the application process shall serve as a basis for rejection of an application.

76.1(4) *Who may apply.* Each person wishing to do so shall have the opportunity to apply for assistance without delay. The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the local office shall send the necessary forms in the next outgoing mail.

76.1(5) *Application not required.* For family medical assistance-related programs, a new application is not required when an eligible person is added to an existing Medicaid eligible group or when a responsible relative becomes a member of a Medicaid eligible household. This person is considered to be included in the application that established the existing eligible group. However, in these instances the date of application to add a person is the date the change is reported. When it is reported that a person is anticipated to enter the home, the date of application to add the person shall be no earlier than the date of entry or the date of report, whichever is later.

a. In those instances where a person previously ineligible for Medicaid for failure to cooperate in obtaining medical support or establishing paternity as described at 441—subrule 75.14(2) is to be granted Medicaid benefits, the person shall be granted Medicaid benefits effective the first of the month in which the person becomes eligible by cooperating in obtaining medical support or establishing paternity.

These rules are intended to implement Iowa Code sections 249.3, 249.4, 249A.4 and 249A.5.

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c. A removable partial denture replacing posterior teeth including six months' postdelivery care when prior approval has been received. A removable partial denture replacing posterior teeth shall be approved when the recipient has fewer than eight posterior teeth in occlusion or the recipient has a full denture in one arch, and a partial denture replacing posterior teeth is required in the opposing arch to balance occlusion. When one removable partial denture brings eight posterior teeth in occlusion, no additional removable partial denture will be approved. A removable partial denture replacing posterior teeth is payable only once in a five-year period unless the removable partial denture is broken beyond repair, lost or stolen, or no longer fits due to growth or changes in jaw structure and is required to prevent significant dental problems. Replacement of a removable partial denture replacing posterior teeth due to resorption in less than a five-year period is not payable. (Cross-reference 78.28(2)"*c*"(1))

d. A fixed partial denture (including an acid etch fixed partial denture) replacing anterior teeth when prior approval has been received. A fixed partial denture (including an acid etch fixed partial denture) replacing anterior teeth shall be approved for recipients whose medical condition precludes the use of a removable partial denture. High noble or noble metals shall be approved only when the recipient is allergic to all other restorative materials. A fixed partial denture replacing anterior teeth is payable only once in a five-year period unless the fixed partial denture is broken beyond repair. (Cross-reference 78.28(2)"*c*"(2))

e. A fixed partial denture (including an acid etch fixed partial denture) replacing posterior teeth when prior approval has been received. A fixed partial denture (including an acid etch fixed partial denture) replacing posterior teeth shall be approved for the recipient whose medical condition precludes the use of a removable partial denture and who has fewer than eight posterior teeth in occlusion or if the recipient has a full denture in one arch and a partial denture replacing posterior teeth is required in the opposing arch to balance occlusion. When one fixed partial denture brings eight posterior teeth in occlusion, no additional fixed partial denture will be approved. High noble or noble metals will be approved only when the recipient is allergic to all other restorative materials. A fixed partial denture replacing posterior teeth is payable only once in a five-year period unless the fixed partial denture is broken beyond repair. (Cross-reference 78.28(2)"*c*"(3))

f. Obturator for surgically excised palatal tissue or deficient velopharyngeal function of cleft palate patients.

g. Chairside relines are payable only once per prosthesis every 12 months.

h. Laboratory processed relines are payable only once per prosthesis every 12 months.

i. Tissue conditioning is a payable service twice per prosthesis in a 12-month period.

j. Two repairs per prosthesis in a 12-month period are payable.

k. Adjustments to a complete or removable partial denture are payable when medically necessary after six months' postdelivery care. An adjustment consists of removal of acrylic material or adjustment of teeth to eliminate a sore area or to make the denture fit better. Warming dentures and massaging them for better fit or placing them in a sonic device does not constitute an adjustment.

78.4(8) *Orthodontic procedures.* Payment may be made for the following orthodontic procedures:

a. When prior approval has been given for orthodontic services to treat the most handicapping malocclusions in a manner consistent with "Handicapping Malocclusion Assessment to Establish Treatment Priority," by J.A. Salzmann, D.D.S., American Journal of Orthodontics, October 1968.

A handicapping malocclusion is a condition that constitutes a hazard to the maintenance of oral health and interferes with the well-being of the patient by causing impaired mastication, dysfunction of the temporomandibular articulation, susceptibility to periodontal disease, susceptibility to dental caries, and impaired speech due to malpositions of the teeth. Treatment of handicapping malocclusions will be approved only for the severe and the most handicapping. Assessment of the most handicapping malocclusion is determined by the magnitude of the following variables: degree of malalignment, missing teeth, angle classification, overjet and overbite, openbite, and crossbite.

A request to perform an orthodontic procedure must be accompanied by an interpreted cephalometric radiograph and study models trimmed so that the models simulate centric occlusion of the patient. A written plan of treatment must accompany the diagnostic aids. Posttreatment records must be furnished upon request of the fiscal agent.

Approval may be made for eight units of a three-month active treatment period. Additional units may be approved by the fiscal agent's orthodontic consultant if found to be medically necessary. (Cross-reference 78.28(2)*"d"*)

b. Space management services shall be payable when there is too little dental ridge to accommodate either the number or the size of teeth and if not corrected significant dental disease will result.

c. Tooth guidance for a limited number of teeth or interceptive orthodontics is a payable service when extensive treatment is not required. Pretreatment records are not required.

78.4(9) *Treatment in a hospital.* Payment will be approved for dental treatment rendered a hospitalized patient only when the mental, physical, or emotional condition of the patient prevents the dentist from providing necessary care in the office.

78.4(10) *Treatment in a nursing facility.* Payment will be approved for dental treatment provided in a nursing facility. When more than one patient is examined during the same nursing home visit, payment will be made by the Medicaid program for only one visit to the nursing home.

78.4(11) *Office visit.* Payment will be approved for an office visit for care of injuries or abnormal conditions of the teeth or supporting structure when treatment procedures or exams are not billed for that visit.

78.4(12) *Office calls after hours.* Payment will be approved for office calls after office hours in emergency situations. The office call will be paid in addition to treatment procedures.

78.4(13) *Drugs.* Payment will be made for drugs dispensed by a dentist only if there is no licensed retail pharmacy in the community where the dentist's office is located. If eligible to dispense drugs, the dentist should request a copy of the Prescribed Drugs Manual from the fiscal agent. Payment will not be made for writing prescriptions.

78.4(14) *Services to adults 21 years of age and older.* Effective May 10, 2002, the following dental services are not covered for adults 21 years of age and older:

a. Crowns, posts, and cores on anterior teeth that have not received endodontic treatment and on posterior teeth.

b. Periodontal services.

c. Endodontic services on posterior teeth.

d. Orthodontic procedures.

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

441—78.5(249A) Podiatrists. Payment will be approved only for certain podiatric services.

78.5(1) Payment will be approved for the following orthotic appliances and treatment of nail pathologies:

a. Durable plantar foot orthotic.

b. Plaster impressions for foot orthotic.

c. Molded digital orthotic.

d. Shoe padding when appliances are not practical.

e. Custom molded space shoes for rheumatoid arthritis, congenital defects and deformities, neurotropic, diabetic and ischemic intractable ulcerations and deformities due to injuries.

f. Rams horn (hypertrophic) nails.

g. Onychomycosis (mycotic) nails.

78.5(2) Payment will be made for the same scope of podiatric services available through Part B of Title XVIII (Medicare) except as listed below:

a. Treatment of flatfoot. The term "flatfoot" is defined as a condition in which one or more arches have flattened out.

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Provider category	Basis of reimbursement	Upper limit
Rural health clinics (RHC)	Retrospective cost-related See 441—88.14(249A)	1. Prospective payment rate as required by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA 2000) or an alternative methodology allowed thereunder, as specified in "2" below. 2. 100% of reasonable cost as determined by Medicare cost reimbursement principles. 3. 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" or "2" above.
Screening centers	Fee schedule	Reimbursement rate for center in effect 6/30/01 less 3%.
State-operated institutions	Retrospective cost-related	

79.1(3) *Ambulatory surgical centers.* Payment is made for facility services on a fee schedule 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 or the dentist are reimbursed on the basis of a fee schedule (see paragraph 79.1(1)*"c"*). This payment is made directly to the physician or dentist.

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, 2001, and before January 1, 2002, except as noted in 79.1(5)*"x."* Cost reports shall be reviewed using Medicare's cost reporting and cost reimbursement principles for those cost reporting periods.

"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 and capital costs are added to form a final payment rate. The costs of hospitals receiving reimbursement as critical access hospitals shall not be used in determining the statewide average case-mix adjusted operating cost per Medicaid discharge.

For purposes of calculating the disproportionate share rate only, a separate blended base amount shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using only the case-mix adjusted operating cost per discharge associated with treating Medicaid patients in the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

"Blended capital costs" shall mean hospital-specific capital costs, plus statewide average capital costs, divided by two. For purposes of calculating the disproportionate share rate only, separate blended capital costs shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using only the capital costs related to the distinct area or areas of the hospital where services are provided predominately to children under 18 years of age.

"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.

For purposes of calculating the disproportionate share rate only, separate capital costs shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using only the base year cost report information related to the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

"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. For purposes of calculating the disproportionate share rate only, a separate case-mix adjustment shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the base amount or other applicable component for the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

"Case-mix index" shall mean an arithmetical index measuring the relative average costliness of cases treated in a hospital compared to the statewide average. For purposes of calculating the disproportionate share rate only, a separate case-mix index shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the average costliness of cases treated in the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

"Children's hospitals" shall mean hospitals with inpatients predominantly under 18 years of age. For purposes of qualifying for disproportionate share payments from the graduate medical education and disproportionate share fund, a children's hospital is defined as a duly licensed hospital that:

1. Either provides services predominantly to children under 18 years of age or includes a distinct area or areas that provide services predominantly to children under 18 years of age, and
2. Is a voting member of the National Association of Children's Hospitals and Related Institutions.

"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.

"Direct medical education costs" shall mean costs directly associated with the medical education of interns and residents or other medical education programs, such as a nursing education program or allied health programs, conducted in an inpatient setting, that qualify for payment as medical education costs under the Medicare program. The amount of direct medical education costs is determined from the hospital base year cost reports, and is inflated and case-mix adjusted in determining the direct medical education rate. Payment for direct medical education costs shall be made from the graduate medical education and disproportionate share fund and shall not be added to the reimbursement for claims.

For purposes of calculating the disproportionate share rate only, separate direct medical education costs shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using only costs associated with the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

"Direct medical education rate" shall mean a rate calculated for a hospital reporting medical education costs on the Medicare cost report (HCFA 2552). The rate is calculated using the following formula: Direct medical education costs are multiplied by inflation factors. The result is divided by the hospital's case-mix index, then is further divided by net discharges. This formula is limited by funding availability that is legislatively appropriated.

For purposes of calculating the disproportionate share rate only, a separate direct medical education rate shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the direct medical education costs, case-mix index, and net discharges of the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

"Disproportionate share payment" shall mean a payment that shall compensate for treatment of a disproportionate share of poor patients. On or after July 1, 1997, the disproportionate share payment shall be made directly from the graduate medical education and disproportionate share fund and shall not be added to the reimbursement for claims with discharge dates on or after July 1, 1997.

"Disproportionate share percentage" shall mean either (1) the product of 2½ percent multiplied by the number of standard deviations by which the hospital's own Medicaid inpatient utilization rate exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals, or (2) 2½ percent. (See 79.1(5)*"y"*(7).)

A separate disproportionate share percentage shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital, using the Medicaid inpatient utilization rate for children under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

"Disproportionate share rate" shall mean the sum of the blended base amount, blended capital costs, direct medical education rate, and indirect medical education rate multiplied by the disproportionate share percentage.

"DRG weight" shall mean a number that reflects relative resource consumption as measured by the relative charges by hospitals for cases associated with each DRG. That is, the Iowa-specific DRG weight reflects the relative charge for treating cases classified in a particular DRG compared to the average charge for treating all Medicaid cases in all DRGs in Iowa hospitals.

"Final payment rate" shall mean the aggregate sum of the two components (the blended base amount and capital costs) that, when added together, form the final dollar value used to calculate each provider's reimbursement amount when multiplied by the DRG weight. These dollar values are displayed on the rate table listing.

"Full DRG transfer" shall mean that a case, coded as a transfer to another hospital, shall be considered to be a normal claim for recalibration or rebasing purposes if payment is equal to or greater than the full DRG payment.

"Graduate medical education and disproportionate share fund" shall mean a reimbursement fund developed as an adjunct reimbursement methodology to directly reimburse qualifying hospitals for the direct and indirect costs associated with the operation of graduate medical education programs and the costs associated with the treatment of a disproportionate share of poor, indigent, nonreimbursed or nominally reimbursed patients for inpatient services.

"Indirect medical education costs" shall mean costs that are not directly associated with running a medical education program, but that are incurred by the facility because of that program. Types of these costs would be costs of maintaining a more extensive library to serve educational needs.

"Indirect medical education rate" shall mean a rate calculated as follows: The statewide average case-mix adjusted operating cost per Medicaid discharge, divided by two, is added to the statewide average capital costs, divided by two. The resulting sum is then multiplied by the ratio of the number of full-time equivalent interns and residents serving in a Medicare-approved hospital teaching program divided by the number of beds included in hospital departments served by the interns' and residents' program, and is further multiplied by 1.159.

For purposes of calculating the disproportionate share rate only, a separate indirect medical education rate shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the number of full-time equivalent interns and residents and the number of beds in the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

"Inlier" shall mean those cases where the length of stay or cost of treatment falls within the actual calculated length of stay criteria, or the cost of treating a patient is within the cost boundaries of a DRG payment.

"Long stay outlier" shall mean cases which have an associated length of stay that is greater than the calculated length of stay parameters as defined within the length of stay calculations for that DRG. Payment is as established in 79.1(5)*"f."*

"Low-income utilization rate" shall mean the ratio of gross billings for all Medicaid, bad debt, and charity care patients, including billings for Medicaid enrollees of managed care organizations and primary care case management organizations, to total billings for all patients. Gross billings do not include cash subsidies received by the hospital for inpatient hospital services except as provided from state or local governments.

A separate low-income utilization rate shall be determined for any hospital qualifying or seeking to qualify for a disproportionate share payment as a children's hospital, using only billings for patients under 18 years of age at the time of admission in the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

"Medicaid inpatient utilization rate" shall mean the number of total Medicaid days, including days for Medicaid enrollees of managed care organizations and primary care case management organizations, both in-state and out-of-state, and Iowa state indigent patient days divided by the number of total inpatient days for both in-state and out-of-state recipients. Children's hospitals, including hospitals qualifying for disproportionate share as a children's hospital, receive twice the percentage of inpatient hospital days attributable to Medicaid patients.

A separate Medicaid inpatient utilization rate shall be determined for any hospital qualifying or seeking to qualify for a disproportionate share payment as a children's hospital, using only Medicaid days, Iowa state indigent patient days, and total inpatient days attributable to patients under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

"Neonatal intensive care unit" shall mean a designated level II or level III neonatal unit.

"Net discharges" shall mean total discharges minus transfers and short stay outliers.

"Peer review organization (PRO)" shall mean the organization that performs medical peer review of Medicaid claims, including review of validity of hospital diagnosis and procedure coding information; completeness, adequacy and quality of care; appropriateness of admission, discharge and transfer; and appropriateness of prospective payment outlier cases.

"Rate table listing" shall mean a schedule of rate payments for each provider. The rate table listing is defined as the output that shows the final payment rate by hospital before being multiplied by the appropriate DRG weight.

"Rebasing" shall mean the redetermination of the blended base amount or other applicable components of the final payment rate from more recent Medicaid cost report data.

"Recalibration" shall mean the adjustment of all DRG weights to reflect changes in relative resource consumption.

"Short stay day outlier" shall mean cases which have an associated length of stay that is less than the calculated length of stay parameters as defined within the length of stay calculations. Payment rates are established in 79.1(5)*"f."*

b. Determination of final payment rate amount. The hospital DRG final payment amount reflects the sum of inflation adjustments to the blended base amount plus an add-on for capital costs. This blended base amount plus the add-on is multiplied by the set of Iowa-specific DRG weights to establish a rate schedule for each hospital. Federal DRG definitions are adopted except as provided below:

(1) Substance abuse units certified pursuant to 79.1(5)*"r."* Three sets of DRG weights are developed for DRGs concerning rehabilitation of substance abuse patients. The first set of weights is developed from charges associated with treating adults in certified substance abuse units. The second set of weights reflects charges associated with treating adolescents in mixed-age certified substance abuse units. The third set of weights reflects charges associated with treating adolescents in designated adolescent-only certified substance abuse units.

Hospitals with these units are reimbursed using the weight that reflects the age of each patient. Out-of-state hospitals may not receive reimbursement for the rehabilitation portion of substance abuse treatment.

(2) Neonatal intensive care units certified pursuant to 79.1(5)"*r*." Three sets of weights are developed for DRGs concerning treatment of neonates. One set of weights is developed from charges associated with treating neonates in a designated level III neonatal intensive care unit for some portion of their hospitalization. The second set of weights is developed from charges associated with treating neonates in a designated level II neonatal intensive care unit for some portion of their hospitalization. The third set of weights reflects charges associated with neonates not treated in a designated level II or level III setting. Hospitals are reimbursed using the weight that reflects the setting for neonate treatment.

(3) Psychiatric units. Four sets of DRG weights are developed for DRGs concerning psychiatric treatment. The first set of weights reflects charges associated with the treatment of adult psychiatric patients in psychiatric units certified pursuant to 79.1(5)"*r*." The second set of weights reflects charges associated with the treatment of adolescent patients in mixed-age psychiatric units certified pursuant to 79.1(5)"*r*." The third set of weights reflects charges associated with the treatment of adolescent patients in designated adolescent-only psychiatric units certified pursuant to 79.1(5)"*r*." The fourth set of weights reflects charges associated with the treatment of psychiatric patients in hospitals without certified psychiatric units. Hospitals are reimbursed using the weight that reflects the patient's age and the setting for psychiatric treatment.

c. Calculation of Iowa-specific weights and case-mix index. Using all applicable claims for the period January 1, 2000, through December 31, 2001, and paid through March 31, 2002, the recalibration will use all normal inlier claims, discard short stay outliers, discard transfers where the final payment is less than the full DRG payment, include transfers where the full payment is greater than or equal to the full DRG payment, and use only the estimated charge for the inlier portion of long stay outliers and cost outliers for weighting calculations. These are referred to as trimmed claims.

(1) Iowa-specific weights are calculated from Medicaid charge data on discharge dates occurring from January 1, 2000, to December 31, 2001, and paid through March 31, 2002. One weight is determined for each DRG with noted exceptions. Weights are determined through the following calculations:

1. Determine the statewide geometric mean charge for all cases classified in each DRG.
2. Compute the statewide aggregate geometric mean charge for each DRG by multiplying the statewide geometric mean charge for each DRG by the total number of cases classified in that DRG.
3. Sum the statewide aggregate geometric mean charges for all DRGs and divide by the total number of cases for all DRGs to determine the weighted average charge for all DRGs.
4. Divide the statewide geometric mean charge for each DRG by the weighted average charge for all DRGs to derive the Iowa-specific weight for each DRG.
5. Normalize the weights so that the average case has a weight of one.

(2) The hospital-specific case-mix index is computed by taking each hospital's trimmed claims that match the hospital's 2001 fiscal year and paid through March 31, 2002, summing the assigned DRG weights associated with those claims and dividing by the total number of Medicaid claims associated with that specific hospital for that period.

For purposes of calculating the disproportionate share rate only, a separate hospital-specific case-mix index shall be computed for any hospital that qualifies for a disproportionate share payment only as a children's hospital, using claims and associated DRG weights only for services provided to patients under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

d. Calculation of blended base amount. The DRG blended base amount reflects a 50/50 blend of statewide and hospital-specific base amounts.

(1) Calculation of statewide average case-mix adjusted cost per discharge. The statewide average cost per discharge is calculated by subtracting from the statewide total Iowa Medicaid inpatient expenditures the total calculated dollar expenditures based on hospitals' base year cost reports for capital costs, medical education costs, and calculation of actual payments that will be made for additional transfers, outliers, physical rehabilitation services, and indirect medical education. The remaining amount (which has been case-mix adjusted and adjusted to reflect inflation if applicable) is divided by the statewide total number of Iowa Medicaid discharges reported in the Medicaid management information system (MMIS) less an actual number of nonfull DRG transfers and short stay outliers.

(2) Calculation of hospital-specific case-mix adjusted average cost per discharge. The hospital-specific case-mix adjusted average cost per discharge is calculated by subtracting from the lesser of total Iowa Medicaid costs, or covered reasonable charges as determined by the hospital's base year cost report or MMIS claims system, the actual dollar expenditures for capital costs, direct medical education costs, the payments that will be made for nonfull DRG transfers, outliers, and physical rehabilitation services if included. The remaining amount is case-mix adjusted, multiplied by inflation factors, and divided by the total number of Iowa Medicaid discharges from the MMIS claims system for that hospital during the applicable base year, less the nonfull DRG transfers and short stay outliers.

For purposes of calculating the disproportionate share rate only, a separate hospital-specific case-mix adjusted average cost per discharge shall be calculated for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the costs, charges, expenditures, payments, discharges, transfers, and outliers attributable to the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

(3) Calculation of the blended statewide and hospital-specific base amount. The hospital-specific case-mix adjusted average cost per discharge is added to the case-mix adjusted statewide average cost per discharge and divided by two to arrive at a 50/50 blended base amount.

e. Add-on to the base amount. One payment for capital costs is added on to the blended base amount.

Capital costs are included in the rate table listing and added to the blended base amount prior to setting the final payment rate schedule. This add-on reflects a 50/50 blend of the statewide average case-mix adjusted capital cost per discharge and the case-mix adjusted hospital-specific base year capital cost per discharge attributed to Iowa Medicaid patients. Allowable capital costs are determined by multiplying the capital amount from the base year cost report by 80 percent. The 50/50 blend is calculated by adding the case-mix adjusted hospital-specific per discharge capital cost to the statewide average case-mix adjusted per discharge capital costs and dividing by two. Hospitals whose blended capital add-on exceeds one standard deviation off the mean Medicaid blended capital rate will be subject to a reduction in their capital add-on to equal the first standard deviation.

For purposes of calculating the disproportionate share rate only, a separate add-on to the base amount for capital costs shall be calculated for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the case-mix adjusted hospital-specific base year capital cost per discharge attributed to Iowa Medicaid patients in the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

f. Outlier payment policy. Additional payment is made for approved cases meeting or exceeding Medicaid criteria for day and cost outliers for each DRG. Effective for claims with dates of services ending July 1, 1993, and after, 100 percent of outlier costs will be paid to facilities at the time of claim reimbursement. The PRO shall perform retrospective outlier reviews in accordance with the terms in the contract between the department and the PRO. The PRO contract is available for review at the Iowa Department of Human Services, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa.

(1) Long stay outliers. Long stay outliers are incurred when a patient's stay exceeds the upper day limit threshold. This threshold is defined as the greater of 23 days of care or two standard deviations above the average statewide length of stay for a given DRG. Reimbursement for long stay outliers is calculated at 60 percent of the average daily rate for the given DRG for each approved day of stay beyond the upper day limit. Payment for long stay outliers shall be paid at 100 percent of the calculated amount and made at the time the claim is originally paid.

(2) Short stay outliers. Short stay outliers are incurred when a patient's length of stay is greater than two standard deviations from the geometric mean below the average statewide length of stay for a given DRG, rounded to the next highest whole number of days. Payment for short stay outliers will be 200 percent of the average daily rate for each day the patient qualifies up to the full DRG payment. Short stay outlier claims will be subject to PRO review and payment denied for inappropriate admissions.

(3) Cost outliers. Cases qualify as cost outliers when costs of service in a given case, not including any add-on amounts for direct or indirect medical education or for disproportionate share costs, exceed the cost threshold. This cost threshold is determined to be the greater of two times the statewide average DRG payment for that case or the hospital's individual DRG payment for that case plus $16,000. Costs are calculated using hospital-specific cost to charge ratios determined in the base year cost reports. Additional payment for cost outliers is 80 percent of the excess between the hospital's cost for the discharge and the cost threshold established to define cost outliers. Payment of cost outlier amounts shall be paid at 100 percent of the calculated amount and made at the time the claim is paid. Those hospitals that are notified of any outlier review initiated by the PRO must submit all requested supporting data to the PRO within 60 days of the receipt of outlier review notification, or outlier payment will be forfeited and recouped. In addition, any hospital may request a review for outlier payment by submitting documentation to the PRO within 365 days of receipt of the outlier payment. If requests are not filed within 365 days, the provider loses the right to appeal or contest that payment.

(4) Day and cost outliers. Cases qualifying as both day and cost outliers are given additional payment as cost outliers only.

g. Billing for patient transfers and readmissions.

(1) Transfers between hospitals. When a Medicaid patient is transferred the initial hospital or unit is paid 100 percent of the average daily rate of the transferring hospital's payment for each day the patient remained in that hospital or unit, up to 100 percent of the entire DRG payment. The hospital or unit that received the transferred patient receives the entire DRG payment.

(2) Substance abuse and psychiatric units. When a patient is discharged to or from an acute care hospital and is admitted to or from a substance abuse or psychiatric unit certified pursuant to 79.1(5)"*r*," both the discharging and admitting hospitals will receive 100 percent of the DRG payment.

(3) Physical rehabilitation hospitals or units. When a patient requiring physical rehabilitation is discharged from an acute care hospital and admitted to a rehabilitation hospital or unit certified pursuant to 79.1(5)"*r*," and the admission is medically appropriate, then payment for time spent in the unit is through a per diem. The discharging hospital will receive 100 percent of the DRG payment. When a patient is discharged from a certified physical rehabilitation hospital or unit and admitted to an acute care hospital, the acute care hospital will receive 100 percent of the DRG payment.

When a patient requiring physical rehabilitation is discharged from a facility other than an acute care hospital and admitted to a rehabilitation hospital or unit certified pursuant to 79.1(5)"*r*," and the admission is medically appropriate, then payment for time spent in the unit is based on a per diem. The other facility will receive payment in accordance with rules governing that facility. When a patient is discharged from a certified physical rehabilitation hospital or unit and admitted to a facility other than an acute care hospital, the other facility will receive payment in accordance with rules governing that facility.

Payment limits as stated in subparagraphs (1) and (2) below are applied in the aggregate during the cost settlement process at the completion of the hospital's fiscal year end. The payment limit stated in subparagraph (3) is applied to aggregate Medicaid payments at the end of the state's fiscal year.

(1) Except as provided in subparagraph (2) below, the department may not pay a provider more for inpatient hospital services under Medicaid than the provider's customary charges to the general public for the services.

(2) The department may pay a public provider that provides services free or at a nominal charge at the same rate that would be used if the provider's charges were equal to or greater than its costs.

(3) Aggregate payments to hospitals and state-operated hospitals may not exceed the amount that can reasonably be estimated would have been paid for those services under Medicare payment principles.

u. Determination of payment amounts for outpatient hospitalization. Rescinded IAB 7/6/94, effective 7/1/94.

v. Reimbursement of malpractice costs. Rescinded IAB 5/30/01, effective 8/1/01.

w. Rate adjustments for hospital mergers. When one or more hospitals merge to form a distinctly different legal entity, the base rate plus applicable add-ons will be revised to reflect this new entity. Financial information from the original cost reports and original rate calculations will be added together and averaged to form the new rate for that entity.

x. For cost reporting periods beginning on or after July 1, 1993, reportable Medicaid administrative and general expenses are allowable only to the extent that they are defined as allowable using Medicare Reimbursement Principles or Health Insurance Reimbursement Manual 15 (HIM-15). Appropriate, reportable costs are those that meet the Medicare (or HIM-15) principles, are reasonable, and are directly related to patient care. In instances where costs are not directly related to patient care or are not in accord with Medicare Principles of Reimbursement, inclusion of those costs in the cost report would not be appropriate. Examples of administrative and general costs that must be related to patient care to be included as a reportable cost in the report are:

(1) Advertising.
(2) Promotional items.
(3) Feasibility studies.
(4) Administrative travel and entertainment.
(5) Dues, subscriptions, or membership costs.
(6) Contributions made to other organizations.
(7) Home office costs.
(8) Public relations items.
(9) Any patient convenience items.
(10) Management fees for administrative services.
(11) Luxury employee benefits (i.e., country club dues).
(12) Motor vehicles for other than patient care.
(13) Reorganization costs.

y. Graduate medical education and disproportionate share fund. Payment shall be made to all hospitals qualifying for direct medical education, indirect medical education, or disproportionate share payments directly from the graduate medical education and disproportionate share fund. The requirements to receive payments from the fund, the amounts allocated to the fund, and the methodology used to determine the distribution amounts from the fund are as follows:

(1) Qualifying for direct medical education. Hospitals qualify for direct medical education payments if direct medical education costs that qualify for payment as medical education costs under the Medicare program are contained in the hospital's base year cost report and in the most recent cost report submitted before the start of the state fiscal year for which payments are being made.

(2) Allocation to fund for direct medical education. Except as reduced pursuant to subparagraph 79.1(5)"*y*"(3), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for direct medical education related to inpatient services for July 1, 2000, through June 30, 2001, is $8,314,810. Adjustments may be made to this amount for inflation or utilization increases, subject to legislative appropriations.

(3) Distribution to qualifying hospitals for direct medical education. Distribution of the amount in the fund for direct medical education shall be on a monthly basis. To determine the amount to be distributed to each qualifying hospital for direct medical education, the following formula is used: Multiply the total of all DRG weights for claims paid from July 1, 1999, through June 30, 2000, for each hospital reporting direct medical education costs that qualify for payment as medical education costs under the Medicare program in the hospital's base year cost report by each hospital's direct medical education rate to obtain a dollar value. The dollar values for each hospital are summed, then each hospital's dollar value is divided by the total dollar value, resulting in a percentage. Each hospital's percentage is multiplied by the amount allocated for direct medical education to determine the payment to each hospital. Effective for payments from the fund for July 2003, the state fiscal year used as the source of DRG weights shall be updated to July 1, 2002, through June 30, 2003. Thereafter, the state fiscal year used as the source of DRG weights shall be updated by a three-year period effective for payments from the fund for July of every third year. If a hospital fails to qualify for direct medical education payments from the fund because it does not report direct medical education costs that qualify for payment as medical education costs under the Medicare program in the most recent cost report submitted before the start of the state fiscal year for which payments are being made, the amount of money that would have been paid to that hospital shall be removed from the fund.

(4) Qualifying for indirect medical education. Hospitals qualify for indirect medical education payments from the fund when they receive a direct medical education payment from Iowa Medicaid and qualify for indirect medical education payments from Medicare. Qualification for indirect medical education payments is determined without regard to the individual components of the specific hospital's teaching program, state ownership, or bed size.

(5) Allocation to fund for indirect medical education. Except as reduced pursuant to subparagraph 79.1(5)"*y*"(6), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for indirect medical education for July 1, 2000, through June 30, 2001, is $14,599,413. Adjustments may be made to this amount for inflation or utilization increases, subject to legislative appropriations.

(6) Distribution to qualifying hospitals for indirect medical education. Distribution of the amount in the fund for indirect medical education shall be on a monthly basis. To determine the amount to be distributed to each qualifying hospital for indirect medical education, the following formula is used: Multiply the total of all DRG weights for claims paid from July 1, 1999, through June 30, 2000, for each hospital reporting direct medical education costs that qualify for payment as medical education costs under the Medicare program in the hospital's base year cost report by each hospital's indirect medical education rate to obtain a dollar value. The dollar values for each hospital are summed, then each hospital's dollar value is divided by the total dollar value, resulting in a percentage. Each hospital's percentage is multiplied by the amount allocated for indirect medical education to determine the payment to each hospital. Effective for payments from the fund for July 2003, the state fiscal year used as the source of DRG weights shall be updated to July 1, 2002, through June 30, 2003. Thereafter, the state fiscal year used as the source of DRG weights shall be updated by a three-year period effective for payments from the fund for July of every third year. If a hospital fails to qualify for indirect medical education payments from the fund because it does not report direct medical education costs that qualify for payment as medical education costs under the Medicare program in the most recent cost report submitted before the start of the state fiscal year for which payments are being made, the amount of money that would have been paid to that hospital shall be removed from the fund.

(7) Qualifying for disproportionate share. For months beginning with July 2002, hospitals qualify for disproportionate share payments from the fund when the hospital's low-income utilization rate exceeds 25 percent, when the hospital's Medicaid inpatient utilization rate exceeds one standard deviation from the statewide average Medicaid utilization rate, or when the hospital qualifies as a children's hospital under subparagraph (10).

For those hospitals that qualify for disproportionate share under both the low-income utilization rate definition and the Medicaid inpatient utilization rate definition, the disproportionate share percentage shall be the greater of (1) the product of 2½ percent multiplied by the number of standard deviations by which the hospital's own Medicaid inpatient utilization rate exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals, or (2) 2½ percent.

For those hospitals that qualify for disproportionate share under the low-income utilization rate definition, but do not qualify under the Medicaid inpatient utilization rate definition, the disproportionate share percentage shall be 2½ percent.

For those hospitals that qualify for disproportionate share under the Medicaid inpatient utilization rate definition, but do not qualify under the low-income utilization rate definition, the disproportionate share percentage shall be the product of 2½ percent multiplied by the number of standard deviations by which the hospital's own Medicaid inpatient utilization rate exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals.

For those hospitals that qualify for disproportionate share as a children's hospital, the disproportionate share percentage shall be the greater of (1) the product of 2½ percent multiplied by the number of standard deviations by which the Medicaid inpatient utilization rate for children under 18 years of age at the time of admission in all areas of the hospital where services are provided predominantly to children under 18 years of age exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals, or (2) 2½ percent.

Information contained in the hospital's available 1998 submitted Medicare cost report is used to determine the hospital's low-income utilization rate and the hospital's Medicaid inpatient utilization rate.

Additionally, a qualifying hospital other than a children's hospital must also have at least two obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to Medicaid-eligible persons who are in need of obstetric services. In the case of a hospital located in a rural area as defined in Section 1886 of the Social Security Act, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

Out-of-state hospitals serving Iowa Medicaid patients qualify for disproportionate share payments from the fund based on their state Medicaid agency's calculation of the Medicaid inpatient utilization rate. The disproportionate share percentage is calculated using the number of standard deviations by which the hospital's own state Medicaid inpatient utilization rate exceeds the hospital's own statewide mean Medicaid inpatient utilization rate.

Hospitals qualify for disproportionate share payments from the fund without regard to the facility's status as a teaching facility or bed size.

Hospitals receiving reimbursement as critical access hospitals shall not qualify for disproportionate share payments from the fund.

(8) Allocation to fund for disproportionate share. The total amount of funding that is allocated to the graduate medical education and disproportionate share fund for disproportionate share payments for July 1, 2000, through June 30, 2001, is $6,978,925. Adjustments may be made to this amount for inflation or utilization increases, subject to legislative appropriations.

(9) Distribution to qualifying hospitals for disproportionate share. Distribution of the amount in the fund for disproportionate share shall be on a monthly basis. To determine the amount to be distributed to each qualifying hospital for disproportionate share for months beginning with July 2002, the following formula is used:

Multiply the total of all DRG weights for claims paid July 1, 1999, through June 30, 2000, for each hospital that met the qualifications during the fiscal year used to determine the hospital's low-income utilization rate and Medicaid utilization rate (or for children's hospitals, during the preceding state fiscal year) by each hospital's disproportionate share rate to obtain a dollar value. For any hospital that qualifies for a disproportionate share payment only as a children's hospital, only the DRG weights for claims paid for services rendered to patients under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age shall be used in this calculation. The dollar values for each hospital are summed, then each hospital's dollar value is divided by the total dollar value, resulting in a percentage. Each hospital's percentage is multiplied by the amount allocated for disproportionate share to determine the payment to each hospital.

Effective for payments from the fund for July 2003, the state fiscal year used as the source of DRG weights shall be updated to July 1, 2002, through June 30, 2003. Thereafter, the state fiscal year used as the source of DRG weights shall be updated by a three-year period effective for payments from the fund for July of every third year. In compliance with Medicaid Voluntary Contribution and Provider Specific Tax Amendments (Public Law 102-234) and 1992 Iowa Acts, chapter 1246, section 13, the total of disproportionate share payments from the fund and supplemental disproportionate share payments pursuant to paragraph 79.1(5)*"ab"* cannot exceed the amount of the federal cap under Public Law 102-234. If a hospital fails to qualify for disproportionate share payments from the fund due to closure or for any other reason, the amount of money that would have been paid to that hospital shall be removed from the fund.

(10) Qualifying for disproportionate share as a children's hospital. A licensed hospital qualifies for disproportionate share payments as a children's hospital if the hospital provides services predominantly to children under 18 years of age or includes a distinct area or areas providing services predominantly to children under 18 years of age, is a voting member of the National Association of Children's Hospitals and Related Institutions, and has Medicaid utilization and low-income utilization rates of 1 percent or greater for children under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

A hospital wishing to qualify for disproportionate share payments as a children's hospital for any state fiscal year beginning on or after July 1, 2002, must provide the following information to the Medicaid fiscal agent within 20 business days of a request by the department:

1. Base year cost reports.
2. Medicaid claims data for children under the age of 18 at the time of admission to the hospital in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.
3. Other information needed to determine a disproportionate share rate encompassing the periods used to determine the disproportionate share rate and distribution amounts.

z. Adjustments to the graduate medical education and disproportionate share fund for changes in utilization. Rescinded IAB 10/31/01, effective 1/1/02.

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.

Once a hospital begins receiving reimbursement as a critical access hospital, prospective DRG and APG payments are not subject to inflation factors, rebasing, or recalibration as provided in paragraph 79.1(5)*"k."*

b. Home- and community-based general rate criteria.

(1) To receive reimbursement for services, a certified provider shall enter into an agreement with the department on Form 470-2918, HCBS Waiver Agreement, and have an approved individual comprehensive plan for the consumer.

(2) The rates a provider may charge are subject to limits established in subrule 79.1(2).

(3) Indirect administrative costs shall be limited to 20 percent of other costs.

(4) Mileage costs shall be reimbursed according to state employee rate.

(5) Consumer travel and transportation, consumer consulting, consumer instruction, consumer environmental modification and repairs and consumer environmental furnishings shall not exceed $1,570 per consumer per year.

(6) For respite care provided in the consumer's home, only the cost of care is reimbursed.

(7) For respite care provided outside the consumer's home, charges may include room and board.

c. Prospective rates for new providers other than respite.

(1) Providers who have not submitted an annual report including at least 6 months of actual, historical costs shall be paid prospective rates based on projected reasonable and proper costs of operation for a 12-month period reported in Form SS-1703-0, Financial and Statistical Report, and Form 470-3449, Supplemental Schedule.

(2) Prospective rates shall be subject to retrospective adjustment as provided in paragraph *"e."*

(3) After a provider has submitted an annual report including at least six months of actual, historical costs, prospective rates shall be determined as provided in paragraph *"d."*

d. Prospective rates for established providers other than respite.

(1) Providers who have submitted an annual report including at least six months of actual, historical costs shall be paid prospective rates based on reasonable and proper costs in a base period, as adjusted for inflation.

(2) The base period shall be the period covered by the first Form SS-1703-0, Financial and Statistical Report, and Form 470-3449, Supplemental Schedule, submitted to the department after 1997 that includes at least six months of actual, historical costs.

(3) Reasonable and proper costs in the base period shall be inflated by a percentage of the increase in the consumer price index for all urban consumers for the preceding 12-month period ending June 30, based on the months included in the base period, to establish the initial prospective rate for an established provider.

*(4) After establishment of the initial prospective rate for an established provider, the rate will be adjusted annually, effective for the third month after the month during which the annual cost report is submitted to the department. The provider's new rate shall be the actual reconciled rate or the previously established rate adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending June 30, whichever is less.

(5) Prospective rates for services other than respite shall be subject to retrospective adjustment as provided in paragraph *"f."*

e. Prospective rates for respite. Prospective rates for respite shall be agreed upon between the consumer, interdisciplinary team and the provider up to the maximum, subject to retrospective adjustment as provided in paragraph *"f."*

*October 1, 2002, effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held September 10, 2002.

f. Retrospective adjustments.

(1) Retrospective adjustments shall be made based on reconciliation of provider's reasonable and proper actual service costs with the revenues received for those services as reported on Form 470-3449, Supplemental Schedule, accompanying Form SS-1703-0, Financial and Statistical Report for Purchase of Service.

(2) Revenues exceeding adjusted actual costs by more than 2.5 percent shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective adjustment.

(3) Providers who do not reimburse revenues exceeding 2.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 2.5 percent of the actual costs deducted from future payments.

g. Supported community living daily rate. For purposes of determining the daily rate for supported community living services, providers are treated as new providers until they have submitted an annual report including at least six months of actual costs for the same consumers at the same site with no significant change in any consumer's needs, or if there is a subsequent change in the consumers at a site or in any consumer's needs. Individual prospective daily rates are determined for each consumer. These rates may be adjusted no more than once every three months if there is a vacancy at the site for over 30 days or the consumer's needs have significantly changed. Rates adjusted on this basis will become effective the month a new cost report is submitted. Retrospective adjustments of the prospective daily rates are based on each site's average costs.

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CHAPTER 109
CHILD CARE CENTERS

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[Prior to 7/1/83, Social Services[770] Ch 109]
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

The intent of this chapter is to specify minimum requirements for licensed child care centers and preschools and to define those child-caring environments that are governed by the licensing standards. The licensing standards govern licensing procedures, administration, parental participation, personnel, records, health and safety policies, physical facilities, activity programs, and food services.

441—109.1(237A) Definitions.

"Adult" means a person 18 years of age or older.

"Child" means either of the following:

1. A person 12 years of age or younger.
2. A person 13 years of age or older but younger than 19 years of age who has a developmental disability, as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law No. 106-402, codified in 42 U.S.C. 15002(8).

"Child care center" or *"center"* means a facility providing child day care for seven or more children, except when the facility is registered as a family day care home or group day care home. For the purposes of this chapter, the word "center" shall apply to a child care center or preschool, unless otherwise specified.

"Child care" means the care, supervision, or guidance of a child by a person other than the parent, guardian, or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child's home, but does not include care, supervision, or guidance of a child by any of the following:

1. An instructional program administered by a public or nonpublic school system accredited by the department of education or the state board of regents or a program provided under Iowa Code sections 279.49 and 280.3A.
2. Any of the following church-related programs:
   - An instructional program.
   - A youth program other than a preschool, before or after school child care program, or other child care program.
   - A program providing care to children on church premises while the children's parents are attending church-related or church-sponsored activities on the church premises.
3. Short-term classes of less than two weeks' duration held between school terms or during a break within a school term.
4. A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the department of inspections and appeals pursuant to Iowa Code chapter 135B.
5. A program operated not more than one day per week by volunteers that meets all the following conditions:
   - Not more than 11 children are served per volunteer.
   - The program operates for less than 4 hours during any 24-hour period.
   - The program is provided at no cost to the children's parent, guardian, or custodian.
6. A nationally accredited camp.
7. A program administered by a political subdivision of the state which is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.

8. An instructional program for children at least four years of age who are attending prekindergarten, as defined by the state board of education, or a higher grade level, administered by a nonpublic school system which is not accredited by the department of education or the state board of regents.

9. An after-school program continuously offered throughout the school year to children who are at least five years of age and enrolled in school and attend the program intermittently, or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.

10. A special activity program which meets less than four hours per day for the sole purpose of the special activity. Special activity programs include but are not limited to music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.

11. A structured program for the purpose of providing therapeutic, rehabilitative, or supervisory services to children under any of the following:

- A purchase of service or managed care contract with the department.
- A contract approved by a local decategorization governance board.
- An arrangement approved by a juvenile court order.

12. Care provided on site to children of parents residing in an emergency, homeless, or domestic violence shelter.

13. A child care facility providing respite care to a licensed foster family home for a period of 24 hours or more to a child who is placed with that licensed foster family home.

14. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided.

"Department" means the department of human services.

"Extended evening care" means child care provided by a child care center between the hours of 9 p.m. and 5 a.m.

"Facility" means a building or physical plant established for the purpose of providing child day care.

"Get-well center" means a facility that cares for a child with an acute illness of short duration for short enrollment periods.

"National Health and Safety Performance Standards" means the National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs produced by the American Public Health Association and the American Academy of Pediatrics with the support of the Maternal and Child Health Bureau, Department of Health and Human Services.

"Parent" means parent or legal guardian.

"Preschool" means a child day care facility which provides care to children aged three through five, for periods of time not exceeding three hours per day. The preschool's program is designed to help the children develop intellectual, social and motor skills, and to extend their interest in and understanding of the world about them.

441—109.2(237A) Licensure procedures.

109.2(1) *Application for license.*

a. Any adult or agency has the right to apply for a license. The application for a license shall be made to the department on Form 470-0722, Application for a License to Operate a Child Care Center, provided by the department.

b. Requested reports including the fire marshal's report and other information relevant to the licensing determination shall be furnished to the department upon application and renewal. A building owned or leased by a school district or accredited nonpublic school that complies with rules adopted by the state fire marshal for school buildings under 661—Chapter 5 is considered appropriate for use by a child care facility.

c. When a center makes a sufficient application for an initial or renewal license, it may operate for a period of up to 120 days, pending a final licensing decision. A center has made a sufficient application when it has submitted the following to the department:

(1) An application for a license.

(2) An approved fire marshal's report.

(3) A floor plan indicating room descriptions and dimensions, including location of windows and doors.

(4) Information sufficient to determine that the center director meets minimum personnel qualifications.

d. Applicants shall be notified of approval or denial within 120 days from the date the application is submitted.

e. The department shall not act on a licensing application for 12 months after an applicant's child care center license has been denied or revoked.

109.2(2) *License.*

a. An applicant showing full compliance with center licensing laws and these rules, including department approval of center plans and procedures, shall be issued a license for 24 months. In determining whether or not a center is in compliance with the intent of a licensing standard outlined in this chapter, the department shall make the final decision.

b. A new license shall be applied for when the center moves, expands, or the facility is remodeled to change licensed capacity.

c. A new license shall be applied for when another adult or agency assumes ownership or legal responsibility for the center.

109.2(3) *Provisional license.*

a. A provisional license may be issued or a previously issued license may be reduced to a provisional license for a period up to one year when the center does not meet all standards imposed by law and these rules.

b. A provisional license shall be renewable when written plans giving specific dates for completion to bring the center up to standards are submitted to and approved by the department. A provisional license shall not be reissued for more than two consecutive years when the lack of compliance with the same standards has not been corrected within two years.

c. When the center submits documentation or it can otherwise be verified that the center fully complies with all standards imposed by law or these rules, the license shall be upgraded to a full license.

109.2(4) *Denial.* Initial applications or renewals shall be denied when:

a. The center does not comply with center licensing laws and these rules in order to qualify for a full or provisional license.

b. The center is operating in a manner which the department determines impairs the safety, health, or well-being of children in care.

c. The owner, director, or a staff member with direct responsibility for child care or with access to a child when the child is alone, including staff who perform duties under a subcontract with the center, who will have access to a child, or anyone living in the child care center has one or more convictions of any crime in any state, or one or more founded abuse reports that merit prohibition of licensure as determined by the department.

d. Information provided either orally or in writing to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.

e. The center is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal in 661—Chapter 5 or Iowa Code chapter 100 or fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.

109.2(5) *Revocation and suspension.* A license shall be revoked or suspended if corrective action has not been taken when:

a. The center does not comply with center licensing laws or these rules.

b. The center is operating in a manner which the department determines impairs the safety, health, or well-being of the children in care.

c. The owner, director, or a staff member with direct responsibility for child care or with access to a child when the child is alone, including staff who perform duties under a subcontract with the center, who will have access to a child, or anyone living in the child care center has one or more convictions of any crime in any state, or one or more founded abuse reports that merit prohibition of licensure as determined by the department.

d. Information provided to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.

e. The facility is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal in 661—Chapter 5 or Iowa Code chapter 100 or fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.

109.2(6) *Adverse actions.*

a. Notice of adverse actions for a denial, revocation, or suspension and the right to appeal the licensing decision shall be given to applicants and licensees in accordance with 441—Chapter 7.

b. An applicant or licensee affected by an adverse action may request a hearing by means of a written request directed to the county office or central office of the department. The request shall be submitted within 30 days after the date the department mailed the official notice containing the nature of the denial, revocation, or suspension.

c. A letter received by an owner or director of a licensed center initiating action to deny, suspend, or revoke the facility's license shall be conspicuously posted at the main entrance to the facility where it can be read by parents or any member of the public. The letter shall remain posted until resolution of the action to deny, suspend or revoke the license. If the action to deny, suspend, or revoke is upheld, the center shall return the license to the department.

d. If the center's license is denied, suspended or revoked, the department shall notify the parent, guardian, or legal custodian of each child for whom the facility provides child care. The center shall cooperate with the department in providing the names and address of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

441—109.3(237A) Inspection and evaluation. The department shall conduct an on-site visit in order to make a licensing recommendation for all initial and renewal applications for licensure and shall determine compliance with licensing standards imposed by licensing laws and these rules when a complaint is received.

109.3(1) At least one unannounced on-site visit shall be conducted each calendar year.

109.3(2) After each visit and complaint, the department shall document whether a center was in compliance with center licensing standards imposed by licensing laws and these rules.

109.3(3) The written documentation of the department's conclusion as to whether a center was in compliance with licensing standards for all licensing visits and complaints shall be available to the public. However, the identity of the complainant shall be withheld unless expressly waived by the complainant.

441—109.4(237A) Administration.

109.4(1) *Purpose and objectives.* Incorporated and unincorporated centers shall submit a written statement of purpose and objectives. The plan and practices of operation shall be consistent with this statement.

109.4(2) *Required written policies.* The child care center owner, board or director shall:

a. Develop fee policies and financial agreements for the children served.

b. Develop and implement policies for enrollment and discharge of children, field trips and non-center activities, transportation, discipline, nutrition, and health and safety policies.

c. Develop a curriculum or program structure that uses developmentally appropriate practices and an activity program appropriate to the developmental level and needs of the children.

d. Develop and implement a written plan for staff orientation to the center's policies and to the provisions of 441—Chapter 109 where applicable to staff.

e. Develop and implement a written plan for ongoing training and staff development in compliance with professional growth and development requirements established by the department in rule 441—109.7(237A).

f. Make available for review a copy of the center policies and program to all staff at the time of employment and each parent at the time a child is admitted to the center. A copy of the fee policies and financial agreements shall be provided to each parent at the time a child is admitted to the center.

109.4(3) *Required postings.*

a. Postings are required for the certificate of license, notice of exposure of children to a communicable disease, and notice of actions to deny, suspend, or revoke the center's license and shall be conspicuously placed at the main entrance to the center. If the center is located in a building used for additional purposes and shares the main entrance to the building, the required postings shall be conspicuously placed in the center in an area that is frequented daily by parents or the public.

b. Postings are required for mandatory reporter requirements, the notice of availability of the handbook required in subrule 109.4(5), and the program activities and shall be placed in an area that is frequented daily by parents or the public.

109.4(4) *Mandatory reporters.* Requirements and procedures for mandatory reporting of suspected child abuse as defined in Iowa Code section 232.69 shall be posted where they can be read by staff and parents. Methods of identifying and reporting suspected child abuse and neglect shall be discussed with all staff within 30 days of employment.

109.4(5) *Handbook.* A copy of Form SS-0711, Child Care Centers and Preschools Licensing Standards and Procedures, shall be available in the center, and a notice stating that a copy is available for review upon request from the center director shall be conspicuously posted. The name, office mailing address and telephone number of the child care consultant shall be included in the notice.

109.4(6) *Certificate of license.* The child care license shall be posted in a conspicuous place and shall state the particular premises in which child care may be offered and the number of children who may be cared for at any one time. Notwithstanding the requirements in rule 441—109.8(237A), no greater number of children than is authorized by the license shall be cared for at any one time.

441—109.5(237A) Parental participation.

109.5(1) *Unlimited access.* Parents shall be afforded unlimited access to their children and to the provider caring for their children during the center's hours of operation or whenever their children are in the care of a provider, unless parental contact is prohibited by court order. The provider shall inform all parents of this policy in writing at the time the child is admitted to the center.

109.5(2) *Parental evaluation.* If requested by the department, centers shall assist the department in conducting an annual survey of parents being served by their center by providing to parents Form 470-3409, Parent Survey: Child Care Centers. The department shall notify centers of the time frames for distribution and completion of the survey and the procedures for returning the survey to the department. The purpose of the survey shall be to increase parents' understanding of developmentally appropriate and safe practice, solicit statewide information regarding parental satisfaction with the quality of care being provided to children and obtain the parents' perspective regarding the center's compliance with licensing requirements.

441—109.6(237A) Personnel. The board or director of the center shall develop policies for hiring and maintaining staff that demonstrate competence in working with children and that meet the following minimum requirements:

109.6(1) *Center director requirements.* Centers that have multiple sites shall have a center director or on-site supervisor in each center. The center director is responsible for the overall functions of the center, including supervising staff, designing curriculum and administering programs. The director shall ensure services are provided for the children within the framework of the licensing requirements and the center's statement of purpose and objectives. The center director shall have overall responsibility for carrying out the program and ensuring the safety and protection of the children. Information shall be submitted in writing to the child care consultant prior to the start of employment. Final determination shall be made by the department. Information shall be submitted sufficient to determine that the director meets the following minimum qualifications:

a. Is at least 21 years of age.

b. Has obtained a high school diploma or passed a general education development test.

c. Has completed at least one course in business administration or 12 contact hours in administrative-related training related to personnel, supervision, record keeping, or budgeting or has one year of administrative-related experience.

d. Has certification in infant, child, and adult cardiopulmonary resuscitation (CPR), first aid, and Iowa's training for the mandatory reporting of child abuse.

e. Has achieved a total of 100 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT-RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	20	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	50	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor's degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	20	Registered family day care home, group day care home, or group day care home- joint registration provider	10	
		Nonregistered family home provider	5	

(1) In obtaining the total of 100 points, a minimum of two categories must be used, no more than 75 points may be achieved in any one category, and at least 20 points shall be obtained from the experience category.

(2) Points obtained in the child development-related training category shall have been taken within the past five years.

(3) For directors in centers predominantly serving children with special needs, the directors may substitute a disabilities-related or nursing degree for the bachelor's degree in early childhood, child development or elementary education in determining point totals. In addition, experience in working with children with special needs in an administrative or direct care capacity shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

(4) For directors in centers serving predominantly school-age children, the directors may substitute a degree in secondary education, physical education, recreation or related fields for the bachelor's degree in early childhood, child development or elementary education in determining point totals. In addition, child-related experience working with school-age children shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

109.6(2) *On-site supervisor.* The on-site supervisor is responsible for the daily supervision of the center and must be on site daily either during the hours of operation that children are present or a minimum of eight hours of the center's hours of operation. Information shall be submitted in writing to the child care consultant prior to the start of employment. Final determination shall be made by the department. Information shall be submitted sufficient to determine that the on-site supervisor meets the following minimum qualifications:

a. Is an adult.

b. Has obtained a high school diploma or passed a general education development test.

c. Has certification in infant, child, and adult cardiopulmonary resuscitation (CPR), first aid, and Iowa's mandatory reporting of child abuse.

d. Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT-RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	20	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	50	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor's degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	20	Registered family day care home, group day care home, or group day care home-joint registration provider	10	
		Nonregistered family home provider	5	

(1) In obtaining the total of 75 points, a minimum of two categories must be used, no more than 50 points may be achieved in any one category, and at least 10 points shall be obtained from the experience category.

(2) Points obtained in the child development-related training category shall have been taken within the past five years.

(3) For on-site supervisors in centers predominantly serving children with special needs, the on-site supervisor may substitute a disabilities-related or nursing degree for the bachelor's degree in early childhood, child development or elementary education in determining point totals. In addition, experience in working with children with special needs in an administrative or direct care capacity shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

(4) For on-site supervisors in centers serving predominantly school-age children, the on-site supervisor may substitute a degree in secondary education, physical education, recreation or related fields for the bachelor's degree in early childhood, child development or elementary education in determining point totals. In addition, child-related experience working with school-age children shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

109.6(3) *Director and on-site supervisor functions combined.* In a center where the functions of the center director and the on-site supervisor are accomplished by the same person, the educational and experience requirements for a center director shall apply. If the center director is serving in the role of the on-site supervisor, the director shall be on site daily either during the hours of operation or a minimum of at least eight hours of the center's hours of operation. If the staff person designated as the on-site supervisor is temporarily absent from the center, another responsible adult staff shall be designated as the interim on-site supervisor.

109.6(4) *Transition period for staff.* In achieving the qualifications outlined in rule 441—109.6(237A), staff hired prior to April 1, 1998, shall obtain the education, experience or child-developmental training sufficient to meet the required point totals by April 1, 1999.

109.6(5) *Volunteers and substitutes.*

a. All volunteers and substitutes shall sign a statement indicating whether or not they have one of the following:

(1) A conviction of any law in any state or any record of founded child abuse or dependent adult abuse in any state.

(2) A communicable disease or other health concern that could pose a threat to the health, safety, or well-being of the children.

b. When a volunteer or substitute is included in the staff ratio count, the center shall have the volunteer or substitute:

(1) Complete Form 595-1396, DHS Criminal History Record Check, Form B.

(2) Complete Form SS-1606-0, Request for Child Abuse Information.

(3) Sign a statement indicating the volunteer or substitute has been informed of the volunteer's or substitute's responsibilities as a mandatory reporter.

109.6(6) *Record checks.* The department shall submit record checks for each owner, director, or staff member with direct responsibility for child care or with access to a child when the child is alone, including staff who perform duties under a subcontract with the center, who will have access to a child, and anyone living in the child care facility who is 14 years of age or older to determine whether they have any founded child abuse reports or criminal convictions or have been placed on the sex offender registry. The department shall use Form 470-0643, Request for Child Abuse Information, and Form 595-1396, DHS Criminal History Record Check, Form B, for this purpose.

If the owner, director, staff member with direct responsibility for child care or with access to a child when the child is alone, including staff who perform duties under a subcontract with the center, who will have access to a child, or anyone living in the child care facility has a record of founded child abuse, a criminal conviction, or placement on the sex offender registry, the department shall deny or revoke the license, unless an evaluation of the abuse or crime determines that the founded abuse or criminal conviction does not warrant prohibition of licensure or denial of employment.

In an evaluation, the department shall consider the nature and seriousness of the founded abuse or crime in relation to the position sought, the time elapsed since the commission of the founded abuse or crime, the circumstances under which the founded abuse or crime was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of founded abuses or crimes committed by the person. The person with the founded child abuse report or criminal conviction shall complete and return Form 470-2310, Record Check Evaluation, within ten calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame shall result in denial or revocation of the license or denial of employment.

a. The department shall make the evaluation and decision. Within 30 days of receipt of the completed Form 470-2310, the department shall mail to the individual on whom the evaluation was completed Form 470-2386, Record Check Decision, that explains the decision reached regarding the evaluation of an abuse or crime and shall notify the employer. The department shall also issue Form 470-2386 when an applicant fails to complete the evaluation form within the ten-calendar-day time frame.

b. The department may permit a person who is evaluated to own, direct, be a staff member with direct responsibility for child care or with access to a child when the child is alone, or to perform duties under subcontract with the center, if the person will have access to a child, or to live in the child care facility, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a center, these conditional requirements shall be developed with the center director. The department has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements.

c. The child abuse and criminal record checks shall be repeated a minimum of every two years and when the department or center becomes aware of any founded abuses, convictions of crimes, or placement on the sex offender registry. The department shall evaluate any founded abuses or convictions of crimes since the last criminal record check or child abuse record check using the same process.

d. The department shall notify the parent, guardian, or legal custodian of each child for whom the person provides child care if there has been a founded child abuse case against an owner, director or staff of the child care center. The center shall cooperate with the department in providing the names and address of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

441—109.7(237A) Professional growth and development. The center director, on-site supervisor, and staff counted as part of the staff ratio shall meet the following minimum staff training requirements:

109.7(1) *Required training within the first six months of employment.* During their first six months of employment, all staff shall receive the following training:

a. Two hours of Iowa's training for mandatory reporting of child abuse.

b. At least one hour of training regarding universal precautions and infectious disease control.

109.7(2) *Staff employed 20 hours or more per week.*

a. During their first year of employment, all staff employed 20 hours or more per week shall receive the following training:

(1) Certification in American Red Cross or American Heart Association infant, child, and adult cardiopulmonary resuscitation (CPR) or equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

(2) Certification in infant, child, and adult first aid that uses a nationally recognized curriculum or is received from a nationally recognized training organization including the American Red Cross, American Heart Association, the National Safety Council, and Emergency Medical Planning (Medic First Aid) or an equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

(3) Ten contact hours of training from one or more of the following topical areas: child development, guidance and discipline, developmentally appropriate practices, nutrition, health and safety, communication skills, professionalism, business practices, and cross-cultural competence. Training received for cardiopulmonary resuscitation (CPR), first aid, mandatory reporting of child abuse, and universal precautions shall not count toward the ten contact hours.

(4) At least four hours of the ten contact hours of training shall be received in a sponsored group setting. Six hours may be received in self-study using a training package approved by the department.

109.15(3) *Feeding of children under two years of age.*

a. All children under 12 months of age shall be fed on demand, unless the parent provides other written instructions. Meals and snacks provided by the center shall follow the CACFP infant menu patterns. Foods shall be appropriate for the infant's nutritional requirements and eating abilities. Menu patterns may be modified according to written instructions from the parent, physician or health care provider. Special formulas prescribed by a physician or health care provider shall be given to a child who has a feeding problem.

b. All children under six months of age shall be held or placed in a sitting-up position sufficient to prevent aspiration during feeding. No bottles shall be propped for children of any age. A child shall not be placed in a crib with a bottle or left sleeping with a bottle. Spoon feeding shall be adapted to the developmental capabilities of the child.

c. Single-service, ready-to-feed formulas, concentrated or powdered formula following the manufacturer's instructions or breast milk shall be used for children 12 months of age and younger unless otherwise ordered by a parent or physician.

d. Whole milk for children under age two who are not on formula or breast milk unless otherwise directed by a physician.

e. Cleaned and sanitized bottles and nipples shall be used for bottles prepared on site. Prepared bottles shall be kept under refrigeration when not in use.

109.15(4) *Food brought from home.*

a. The center shall establish policies regarding food brought from home for children under five years of age who are not enrolled in school. A copy of the written policy shall be given to the parent at admission. Food brought from home for children under five years of age who are not enrolled in school shall be monitored and supplemented if necessary to ensure CACFP guidelines are maintained.

b. The center may not restrict a parent from providing meals brought from home for school-age children or apply nutritional standards to the meals.

c. Perishable foods brought from home shall be maintained to avoid contamination or spoilage.

d. Snacks that may not meet CACFP nutrition guidelines may be provided by parents for special occasions such as birthdays or holidays.

109.15(5) *Food preparation, storage, and sanitation.* Centers shall ensure that food preparation and storage procedures are consistent with the recommendations of the National Health and Safety Performance Standards and provide:

a. Sufficient refrigeration appropriate to the perishable food to prevent spoilage or the growth of bacteria.

b. Sanitary and safe methods in food preparation, serving, and storage sufficient to prevent the transmission of disease, infestation of insects and rodents, and the spoilage of food. Staff preparing food who have injuries on their hands shall wear protective gloves. Staff serving food shall have clean hands or wear protective gloves and use clean serving utensils.

c. Sanitary methods for dish-washing techniques sufficient to prevent the transmission of disease.

d. Sanitary methods for garbage disposal sufficient to prevent the transmission of disease and infestation of insects and rodents.

109.15(6) *Water supply.* The center shall ensure that suitable water and sanitary drinking facilities are available and accessible to children. Centers that serve infants and toddlers shall provide individual cups for drinking in addition to drinking fountains that may be available in the center.

a. Private water supplies shall be of satisfactory bacteriological quality as shown by an annual laboratory analysis. Water for the analysis shall be drawn between May 1 and June 30 of each year. When the center provides care for children under two years of age, a nitrate analysis shall also be obtained.

b. When public or private water supplies are determined unsuitable for drinking, commercially bottled water certified as chemically and bacteriologically potable or water treated through a process approved by the health department or designee shall be provided.

These rules are intended to implement Iowa Code section 232.69 and chapter 237A.

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k. Capital asset use allowance (depreciation) schedule. The Capital Asset Use Allowance Schedule shall be prepared using the guidelines for provider reimbursement in the Medicare and Medicaid Guide, December 1981.

l. The following expenses shall not be allowed:

(1) Fees paid directors and nonworking officers' salaries.

(2) Bad debts.

(3) Entertainment expenses.

(4) Memberships in recreational clubs, paid for by an agency (country clubs, dinner clubs, health clubs, or similar places) which are primarily for the benefit of the employees of the agency.

(5) Legal assistance on behalf of clients.

(6) Costs eligible for reimbursement through the medical assistance program.

(7) Food and lodging expenses for personnel incurred in the city or immediate area surrounding the personnel's residence or office of employment, except when the specific expense is required by the agency and documentation is maintained for audit purposes. Food and lodging expenses incurred as part of programmed activities on behalf of clients, their parents, guardians, or consultants are allowable expenses when documentation is available for audit purposes.

(8) Business conferences and conventions. Meeting costs of an agency which are not required in licensure.

(9) Awards and grants to recognize board members and community citizens for achievement. Awards and grants to clients as part of treatment program are reimbursable.

(10) Survey costs when required certification is not attained.

(11) Federal and state income taxes.

m. Limited service—without a ceiling. The following expenses are limited for service without a ceiling established by administrative rule or law for that service. This includes services with maximum rates, with the exception of shelter care.

(1) Moving and recruitment are allowed as a reimbursable cost only to the extent allowed for state employees. Expenses incurred for placing advertising for purposes of locating qualified individuals for staff positions are allowed for reimbursement purposes.

(2) and (3) Rescinded IAB 5/18/88, effective May 1, 1988.

(4) Costs for participation in educational conferences are limited to 3 percent of the agency's actual salary costs, less excluded or limited salary costs as recorded on the financial and statistical report.

(5) Costs of reference publications and subscriptions for program-related materials are limited to $500 per year.

(6) Memberships in professional service organizations are allowed to the extent they do not exceed one-half of 1 percent of the total salary costs less excluded salary costs.

(7) In-state travel costs for mileage and per diem expenses are allowable to the extent they do not exceed the maximum mileage and per diem rates for state employees for travel in the state.

(8) Reimbursement for air travel shall not exceed the lesser of the minimum commercial rate or the rate allowed for mileage in subparagraph (7) above.

(9) The maximum reimbursable salary for the agency administrator or executive director charged to purchase of service is $40,000 annually.

(10) Annual meeting costs of an agency which are required in licensure are allowed to the extent required by licensure.

n. Limited service—with a ceiling. The following expenses are limited for services with a ceiling established by administrative rule or law for that service. This includes shelter care.

(1) The maximum reimbursable compensation for the agency administrator or executive director charged to purchase of service annually is $40,000.

(2) Annual meeting costs of an agency which are required for licensure are allowed to the extent required by licensure.

o. Establishment of ceiling and reimbursement rate.

(1) The maximum allowable rate ceiling applicable to each service is found in the rules for that particular service.

(2) When a ceiling exists, the reimbursement rate shall be established by determining on a per unit basis the allowable cost plus the current cost adjustment subject to the maximum allowable cost ceiling.

p. Rate limits. Interruptions in service programs will not affect the rate. If an agency assumes the delivery of service from another agency, the rate shall remain the same as for the former agency.

(1) Unless otherwise provided for in 441—Chapter 156, rates for shelter care shall not exceed $83.69 per day based on a 365-day year.

(2) For the fiscal year beginning July 1, 2002, the maximum reimbursement rates for services provided under a purchase of social service agency contract (adoption, shelter care, family planning, and independent living) shall be the same as the rates in effect on June 30, 2001, except under any of the following circumstances:

1. If a new service was added after June 30, 2001, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

For adoption, the only time a provider shall be considered to be offering a new service is if the provider adds the adoptive home study, the adoptive home study update, placement services, or postplacement services for the first time. Preparation of the child, preparation of the family and preplacement visits are components of the services listed above.

For shelter care, if the provider is currently offering shelter care under social services contract, the only time the provider shall be considered to be offering a new service is if the provider adds a service other than shelter care.

For family planning, the only time the provider shall be considered to be offering a new service is when a new unit of service is added by administrative rule.

For independent living, the only time a provider shall be considered to be offering a new service is when the agency adds a cluster site or a scattered site for the first time. If, for example, the agency has an independent living cluster site, the addition of a new site does not constitute a new service.

If the department defines, in administrative rule, a new service as a social service that may be purchased, this shall constitute a new service for purposes of establishment of a rate. Once the rate for the new service is established for a provider, the rate will be subject to any limitations established by administrative rule or law.

2. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

3. For the fiscal year beginning July 1, 2002, the combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be $83.69 per day. If the department reimburses the provider at less than the maximum rate, but the provider's cost report justifies a rate of at least $83.69, the department shall readjust the provider's reimbursement rate to the actual and allowable cost plus the inflation factor or $83.69, whichever is less.

4. For the fiscal year beginning July 1, 2002, the purchase of service reimbursement rate for a shelter care provider's actual and allowable cost plus inflation shall be increased by $3.99. For state fiscal year 2003 beginning July 1, 2002, the established statewide average actual and allowable cost shall be increased by $3.99.

5. Rescinded IAB 6/28/00, effective 7/1/00.

q. Related party costs. Direct and indirect costs applicable to services, facilities, equipment, and supplies furnished to the provider by organizations related to the provider are includable in the allowable cost of the provider at the cost to the related organization. All costs allowable at the provider level are also allowable at the related organization level, unless these related organization costs are duplicative of provider costs already subject to reimbursement.

(1) Allowable costs shall be all actual direct and indirect costs applying to any service or item interchanged between related parties, such as capital use allowance (depreciation), interest on borrowed money, insurance, taxes, and maintenance costs.

(2) When the related party's costs are used as the basis for allowable rental or supply costs, the related party shall supply documentation of these costs to the provider. The provider shall complete a schedule displaying amount paid to related parties, related party cost, and total amount allowable. The resulting costs shall be allocated according to policies in 150.3(5)*"a"*(3) to (7).

Financial and statistical records shall be maintained by the related party under the provisions in 150.3(3)*"k."*

(3) Tests for relatedness shall be those specified in rule 441—150.1(234) and 150.3(3)*"o."* The department or the purchase of service fiscal consultant shall have access to the records of the provider and landlord or supplier to determine if relatedness exists. Applicable records may include financial and accounting records, board minutes, articles of incorporation, and list of board members.

r. Day care increase. Rescinded IAB 7/7/93, effective 7/1/93.

s. Interest on unpaid invoices. Any invoice that remains unpaid after 60 days following the receipt of a valid claim is subject to the payment of interest. The rate of interest is 1 percent per month beyond the 60-day period, on a simple interest basis. A separate claim for the interest is to be generated by the agency. If the original claim was paid with both federal and state funds, only that portion of the original claim paid with state funds will be subject to interest charges.

t. Interest as an allowable cost. Necessary and proper interest on both current and capital indebtedness is an allowable cost.

(1) "Interest" is the cost incurred for the use of borrowed funds. Interest on current indebtedness is the cost incurred for funds borrowed for a relatively short term. Interest on capital indebtedness is the cost incurred for funds borrowed for capital purposes.

(2) "Necessary" requires that the interest be incurred on a loan made to satisfy a financial need of the provider, be incurred on a loan made for a purpose reasonably required to operate a program, and be reduced by investment income except where the income is from gifts and grants whether restricted or unrestricted, and which are held separate and not commingled with other funds.

(3) "Proper" requires that interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market on the date the loan was made, and be paid to a lender not related through control or ownership to the borrowing organization.

u. Rate formula. Paragraph 150.3(5)*"p"* notwithstanding, when rates are determined based on cost of providing the service involved, they will be calculated according to the following mathematical formula:

$$\frac{\text{Net allowable expenditures}}{\text{Effective utilization level}} \times \text{Reimbursement factor} = \text{Base Rate}$$

(1) Net allowable expenditures are those expenditures attributable to service to clients which are allowable as set forth in subrule 150.3(5), paragraphs *"a"* to *"t."*

(2) Effective utilization level shall be 80 percent or actual (whichever is greater) of the licensed or staffed capacity (whichever is less) of the program.

(3) Inflation factor is the percentage which will be applied to develop payment rates consistent with current policy and funding of the department. The inflation factor is intended to overcome the time lag between the time period for which costs were reported and the time period during which the rates will be in effect. The inflation factor shall be the amount by which the Consumer Price Index for all urban consumers increased during the preceding calendar year ending December 31.

(4) Base rate is the rate which is developed independent of any limits which are in effect. Actual rates paid are subject to applicable limits or maximums.

v. Rescinded IAB 5/13/92, effective 4/16/92.

150.3(6) *Client eligibility and referral.*

a. Program eligibility. To receive services through the purchase of service system, clients shall be determined eligible and be formally referred by the department. The department shall not make payment for services provided prior to the client's application, eligibility determination, and referral. See *"b"* below for an exception to this rule.

The following forms shall be used by the department to authorize services:

Form 470-0622, Referral of Client for Purchase of Social Services.

Form 470-0719, Placement Agreement: Child Placing or Child Caring Agency (Provider).

b. When a court orders foster care and the department has no responsibility for supervision or placement of the client, the department will pay the rate established by these rules for maintenance and service provided by the facility.

150.3(7) *Client fees.* The provider shall agree not to require any fee for service from departmental clients unless a fee is required by the department and is consistent with federal regulation and state policy. Rules governing client fees are found in 441—130.4(234).

The provider shall collect fees due from clients. The provider shall maintain records of fees collected, and these records shall be available for audit by the department or its representative. When a client does not pay the fee, the provider shall demonstrate that a reasonable effort has been made to collect the fee. Reasonable effort to collect means an original billing and two follow-up notices of nonpayment. When the second notice of nonpayment is sent, the provider shall send a copy of the notice to the department worker.

441—150.8(234) Provider advisory committee. The provider advisory committee serves in an advisory capacity to the department, specifically to the bureau of purchased services. The provider advisory committee is composed of representatives from member provider associations as appointed by the respective associations. Individual representatives from provider agencies having a purchase of service contract but not belonging to an association may become members of the provider advisory committee upon simple majority vote of the committee members at a meeting. A representative of the purchase of service fiscal consultant is a nonvoting member. Departmental representatives from the bureau of purchased services, the office of the deputy director of field operations, the division of adult, children and families services, and the division of mental health and developmental disabilities are also nonvoting members.

441—150.9(234) Public access to contracts. Subject to applicable federal and state laws and regulations on confidentiality including 441—Chapter 9, all material submitted to the department of human services pursuant to this chapter shall be considered public information.

These rules are intended to implement Iowa Code section 234.6 and 2001 Iowa Acts, House File 732, section 31, subsection 6, and Senate File 537, section 1, subsection 1, paragraph *"d."*

441—150.10 to **441—150.20** Reserved.

DIVISION II
PURCHASE OF SOCIAL SERVICES CONTRACTING ON BEHALF OF COUNTIES FOR LOCAL PURCHASE SERVICES FOR ADULTS WITH MENTAL ILLNESS, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES
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441—163.8(234) Evaluation. The department shall evaluate the provider at least once prior to the end of the contract year to determine how well the purposes and goals are being met and shall provide ongoing feedback to the provider. Funds are to be spent to meet program goals as provided in the contract.

Grantees shall be required to submit quarterly reports. All grantees shall cooperate with the statewide evaluation grantee and provide all requested information. The evaluation grantee shall provide a written yearly report to the department.

441—163.9(234) Termination of contract. The contract may be terminated by either party at any time during the contract period by giving 30 days' notice to the other party.

163.9(1) The department may terminate a contract upon ten days' notice when the provider or any of its subcontractors fail to comply with the grant award stipulations, standards, or conditions.

163.9(2) Within 45 days of the termination, the provider shall supply the department with a financial statement detailing all costs up to the effective date of the termination.

163.9(3) The department shall administer the funds for this program contingent upon their availability. If the department lacks the funds necessary to fulfill its fiscal responsibility under this program, the contracts shall be terminated or renegotiated.

441—163.10(234) Appeals. Applicants dissatisfied with the grant designation committee's decision may file an appeal with the director. The letter of appeal must be received within ten working days of the date of the notice of decision; must be based on a contention that the process was conducted outside of statutory authority, violated state or federal law, policy or rule, did not provide adequate public notice, was altered without adequate public notice, or involved conflict of interest by staff or committee members; and must include a request for the director to review the decision and the reasons for dissatisfaction. Within ten working days of the receipt of the appeal the director will review the appeal request and issue a final decision.

No disbursements will be made to any applicant for a period of ten calendar days following the notice of decision. If an appeal is filed within the ten days, all disbursements will be held pending a final decision on the appeal. All applicants involved will be notified if an appeal is filed and given the opportunity to be included as a party in the appeal.

These rules are intended to implement Iowa Code section 234.6.

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CHAPTER 164
IOWA HOSPITAL TRUST FUND

PREAMBLE

These rules describe the Iowa hospital trust fund created by the Second Extraordinary Session of the Seventy-ninth General Assembly in 2001 Iowa Acts, House File 763, and explain how public hospitals can participate in a program for funding of the Iowa hospital trust fund.

441—164.1(249I) Definitions.

"Department" means the Iowa department of human services.

"Hospital" means hospital as defined in Iowa Code section 135B.1.

"Hospital trust fund" or *"trust fund"* means the Iowa hospital trust fund created by Iowa Code Supplement section 249I.4, in the state treasury under the authority of the department.

"Public hospital" means a hospital licensed pursuant to Iowa Code chapter 135B and governed pursuant to Iowa Code chapter 145A, 347, 347A, or 392.

441—164.2(249I) Funding and operation of trust fund. Net funds received by the department through intergovernmental agreements for the hospital trust fund and moneys received by the department from other sources for the hospital trust fund, including grants, contributions, and participant payments, shall be deposited in the hospital trust fund. Annual expenses that are incurred to operate the hospital trust fund shall be deducted from funds received as a result of intergovernmental agreements and other sources, before their deposit in the hospital trust fund.

441—164.3(249I) Allocations from the hospital trust fund. Moneys deposited in the hospital trust fund shall be used only for the purposes of the hospital trust fund as specified in Iowa Code Supplement section 249I.2 and as provided in appropriations from the trust fund to the department of human services as specified in Iowa Code Supplement section 249I.4.

441—164.4(249I) Participation by public hospitals.

164.4(1) *Participation agreement.* Iowa public hospitals that participate in the Iowa Medicaid program and wish to participate in the funding of the hospital trust fund shall contact the Department of Human Services, Office of the Deputy Director for Policy, Hoover State Office Building, Fifth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114, for information regarding the conditions of participation. Upon acceptance of the conditions of participation, the hospital shall sign Form 470-3932, Participation Agreement for Intergovernmental Transfer.

164.4(2) *Administration fee.* Upon acceptance of the participation agreement, the department shall authorize increased reimbursement to the participating facility for hospital services provided under the Medicaid program. Once every state fiscal year, the hospital shall retain $5,000 of the additional reimbursement received, as an administration fee. The hospital shall refund the remainder of the additional reimbursement through intergovernmental transfer to the department for deposit of the federal share (less the $5,000 retained by the hospital) in the Iowa hospital trust fund and the nonfederal share in the medical assistance budget.

164.4(3) *Limit on participation.* The department may limit participation by public hospitals to no more than the number needed to maximize the fund.

These rules are intended to implement Iowa Code Supplement section 249I.4.

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b. The scope of these negotiations is limited solely to the rate to be paid for each service.

(1) No other items, such as, but not limited to, changes in staff qualifications, service definition, required components, allowable costs or any licensing, certification or any contract requirement can be the subject of negotiations or used as a basis for changing rates except as provided for at subparagraph 185.112(1)*"f"*(7).

(2) The initial negotiation of rates pursuant to rule 441—185.112(234) shall encompass all of the services in the existing rehabilitative treatment and supportive services contract.

c. The regional administrator of the host region is responsible for the negotiation of rates for each provider whose contract for rehabilitative treatment and supportive services is administered by the host region, regardless of where services are provided.

(1) The host region shall take into consideration the other regions served by a provider when negotiating a rate for a service provided in multiple regions.

(2) When a service is provided only in a nonhost region, the two regional administrators shall determine which region will negotiate the rate for that service.

d. The regional administrator of the host region and the provider are mutually responsible for initiating the rate negotiation process. Negotiations should begin no later than May 1, 1998. Negotiations may be conducted in a manner acceptable to both parties but shall be conducted face to face upon the request of either party.

e. The provider must disclose any and all relevant subcontractual and related party relationships related to the provision of rehabilitative treatment or supportive services at the initiation of the rate negotiation process.

(1) This disclosure shall include all current and any proposed subcontracts that relate to the direct provision of rehabilitative treatment or supportive services for which rates are being negotiated. The provider shall make a written statement disclosing any current or proposed subcontracts that may relate to the rehabilitative treatment and supportive services for which rates are being negotiated.

(2) This disclosure shall include all transactions with related parties as defined at paragraph 185.105(11)*"c"* or 441—subrule 152.2(18) that may relate to the rehabilitative treatment and supportive services for which rates are being negotiated. The provider shall make a written statement disclosing any current related party transactions that may relate to the rehabilitative treatment and supportive services for which rates are being negotiated. This disclosure is only required when either the department or the provider seeks to establish a rate different than the rate used as the starting point for rate negotiations.

(3) Failure by a provider to comply with these requirements shall be considered a violation in accordance with subrule 185.12(6) and may result in sanctions being imposed or the withholding of payments.

f. For those services with a nonzero payment rate in effect on December 31, 1997, the rate in effect on December 31, 1997, shall be used as the starting point for rate negotiations. For rates to be effective on or after February 1, 1998, the department and the provider by mutual written agreement may either leave the rate in effect as of December 31, 1997, at its current level or they may raise or lower the rate in effect as of December 31, 1997. Adjustment of the rate in effect as of December 31, 1997, shall be based on the following factors:

(1) Changes in the Consumer Price Index for all Urban Consumers (CPI-U). Any adjustment based on changes in the CPI-U shall not exceed the amount by which the CPI-U increased during the previous calendar year.

(2) Changes in a provider's allowable costs based on current actual cost data or documented projections of cost. Allowable costs are those costs not excluded pursuant to rule 441—185.104(234).

(3) Changes in program utilization that impact the per unit cost of a program. Rates shall not be adjusted based on utilization levels that are below the minimum effective utilization of 80 percent or actual (whichever is higher) of the licensed or staffed capacity (whichever is less) of the program. If actual utilization is used as a basis for adjusting a rate, the actual effective utilization for the 12-month period immediately preceding the initiation of rate negotiations shall be used.

(4) Changes in the department's expectations of where a service must be delivered.

(5) Changes proposed by a provider and agreed to by the department of where a service must be delivered.

(6) Loss of a grant by a provider when the grant amount had previously been used to offset expenses which had resulted in a lower rate for rehabilitative treatment and supportive services.

(7) Changes in state or federal laws, rules or regulations that result in a change in the costs attributable to the services in question, including minimum wage adjustments.

(8) Competitive factors between providers.

(9) Department funding availability.

g. Existing providers who currently have a contract to provide a service where the payment rate has been established at zero prior to January 1, 1998, may use the weighted average rate established pursuant to paragraph 185.112(2)*"c"* for that service in lieu of their existing rate as the starting point for negotiations unless they have a nonzero rate for a similar service. If a provider has a nonzero rate for a similar service, the starting point for rate negotiations shall be established pursuant to paragraph 185.112(2)*"a"* or *"b."*

h. Negotiated rates are subject to the following additional limitations.

(1) For public agencies, profit or other increment above cost is not allowed (see subrule 185.112(5)). For private entities there is no provision for or prohibition of profit in these rules.

(2) Rates for cotherapy services continue to be subject to the limitations specified at subparagraph 185.106(4)*"c"*(2).

(3) Rates shall not exceed any rate ceiling established or authorized by the legislature.

(4) Rates to be paid may not exceed the limits established by 441—subrule 152.2(17).

i. The basis for any and all changes from the rate used as the starting point for negotiations shall be documented. A copy of all documentation shall be attached to the Rehabilitative Treatment and Supportive Services Negotiated Rate Establishment Amendment, Form 470-3404, when it is submitted to the bureau of purchased services for implementation.

j. Only the regional administrator of the host region may approve the rates negotiated for a provider.

(1) This approval shall be based upon the historical cost basis used for establishing those rates and the documented factors justifying variation from those historical costs.

1. Payment rates in effect as of December 31, 1997, shall be considered to be sufficiently documented and no justification is required for continuing a rate in effect as of December 31, 1997.

2. Payment rates set at the weighted average rate for a service shall be considered to be sufficiently documented and no justification is required for establishing or maintaining a rate at the weighted average level.

(2) After both the provider and the regional administrator of the host region have signed the Rehabilitative Treatment and Supportive Services Negotiated Rate Establishment Amendment, Form 470-3404, it shall be submitted to the bureau of purchased services along with the written disclosure required at paragraph 185.112(1)*"e"* and any necessary documentation to support changes in the rate from the historical cost base as required by paragraph 185.112(1)*"h."*

(3) The effective date of the rate for a new service shall be the effective date of a new contract or the effective date of the contract amendment adding that new service to an existing contract unless a later effective date is agreed to by both parties.

(4) The effective date of the rate for an existing service shall be the first of the month following the month in which the Rehabilitative Treatment and Supportive Services Negotiated Rate Establishment Amendment, Form 470-3404, and all necessary supportive documentation and disclosures are received by the bureau of purchased services by the fifteenth of the month.

k. Once a negotiated rate is established based on the provisions of this subrule, it shall not be changed or renegotiated during the time period of this rule except in the following circumstances:

(1) By mutual consent of the provider and the service area manager of the host area based upon the factors delineated at paragraph 185.112(1)*"f,"* except that rates shall not be changed or renegotiated for the period of July 1, 2000, through June 30, 2003.

(2) In accordance with paragraph 185.112(6)*"b,"* except that rates shall not be changed or renegotiated for services not assumed by a new provider for the period of July 1, 2000, through June 30, 2003.

(3) Rates may be changed when funds are appropriated for an across-the-board increase.

185.112(2) *New services.* When a new provider contracts to provide a rehabilitative treatment or supportive service or an existing provider adds a new rehabilitative treatment or supportive service on or after January 1, 1998, the rate for the new service shall be established based on a payment rate negotiated in accordance with subrule 185.112(1) using the weighted average rate for that service in lieu of an existing rate as the starting point for negotiations.

a. If an existing provider already has a rate for a similar service and wishes to establish a second rate for that service, the starting point for rate negotiations for the second rate shall be the starting point used in negotiations for the provider's already established rate for that similar service.

b. If an existing provider has more than one rate for a similar service and wishes to establish an additional rate for that service, the starting point for rate negotiations shall be established by the regional administrator of the host region and shall be one of the following: the starting point of that provider's established rate for the similar service most closely resembling the proposed service, or the simple average of the starting points of all of the provider's established rates for similar services.

c. The weighted average rate is the weighted average rate for each service as of July 1, 1997, as previously established in accordance with subrule 185.109(1).

d. For those services where no weighted average rate has been established because there are less than four rates existing for that service or for newly developed rehabilitative treatment and supportive services, the department shall determine the cost of that service by requiring financial and statistical reports reflecting the costs for the new service to be submitted in accordance with rules 441—185.102(234) to 441—185.107(234). Initial projected rates established in accordance with this subrule shall become effective in accordance with subrule 185.107(2).

The report of actual costs pursuant to paragraph 185.103(1)*"b"* shall be used only to establish the historical costs of the new service which shall be used as the starting point in the rate negotiation process. The negotiated rate established in accordance with subrule 185.112(1) based upon the actual cost report shall become effective in accordance with paragraph 185.112(1)*"j."*

185.112(3) *Rate resolution process.* The rate resolution process may be used when the department and a provider are unable to agree upon a rate for a service within 60 days of initiating rate negotiations.

a. This process involves obtaining an independent mediator who is agreeable to both parties.

b. The cost of the mediator shall be borne equally by the provider and the department. Neither party to the mediation shall be liable for paying for more than that party's share of the cost for eight hours of mediation unless this is mutually agreed upon prior to initiation of the mediation process.

c. The rate resolution process must be concluded within 60 days of its initiation.

d. The mediator shall not make rate-setting decisions. The role of the mediator is to facilitate discussions between the parties in an effort to help the parties reach a mutual agreement.

185.112(4) *Failure to reach agreement on rates.* In the event the department and the provider are unable to reach agreement on a rate, the following procedures apply:

a. If the department and an existing provider are unable to reach agreement on a negotiated rate for an existing service with a published rate within 60 days of initiating negotiations or by June 30, 1998, whichever comes first, the rate resolution process may be used.

(1) Whether or not the rate resolution process is used, if agreement is not reached by September 30, 1998, the service shall be deleted from the provider's rehabilitative treatment and supportive services contract no later than November 30, 1998.

(2) If agreement is reached, the rate shall become effective in accordance with the provisions of paragraph 185.112(1)*"i."*

b. In the event the department and an existing provider are unable to reach agreement on a rate for a new service or an existing service without a published rate within 60 days of initiating rate negotiations, the rate resolution process may be used.

(1) If the rate resolution process is not used, and agreement is not reached within 120 days of initiating negotiations, no rate shall be established.

1. For new services, any contract amendment associated with that rate shall be denied.
2. For existing services without a rate, the contract shall be amended to delete this service from the contract.

(2) If the rate resolution process is used and no rate is agreed upon within 60 days of referral to the rate resolution process, no rate shall be established.

1. For new services, any contract amendment associated with that rate shall be denied.
2. For existing services without a rate, the contract shall be amended to delete this service from the contract.
3. If agreement is reached within the required time frames in either of the above situations, the rate shall become effective in accordance with the provisions of paragraph 185.112(1)*"i."*

c. In the event the department and a new provider are unable to reach agreement on a rate for a service within 60 days of initiating rate negotiations, the rate resolution process may be used. If no rate is agreed upon within 60 days of initiation of the rate resolution process, no rate shall be established and the services in question shall not be a part of any approved contract for rehabilitative treatment and supportive services. In the event that the department and a new provider cannot reach agreement on any rates, the contract shall be denied.

d. In all cases, a service for which a negotiated rate has not been established in accordance with subrule 185.112(1), except as provided for at subrule 185.112(12), on or before September 30, 1998, shall be terminated from the provider's contract for rehabilitative treatment and supportive services no later than November 30, 1998.

e. The department shall not be liable for payment for any rehabilitative treatment or supportive service that does not have a rate established in accordance with subrule 185.112(1), except as provided for at subrule 185.112(12), that is provided after November 30, 1998.

185.112(5) *Public agencies.* Public agencies shall be required to demonstrate their compliance with paragraph 185.106(3)*"d."*

185.112(6) *Interruptions in a program.*

a. If a provider assumes the delivery of a program from a related party provider as defined at paragraph 185.105(11)*"c"* or 441—subrule 152.2(18), the rate for the new provider shall remain the same as the rate established for the former provider. The rate for the new provider shall also remain the same as for the former provider if the difference between the former and the new provider is a change in name or a change in the legal form of ownership (i.e., a change from sole proprietorship to corporation).

DIVISION VII
BILLING AND PAYMENT PROCEDURES

441—185.121(234) Billing procedures. At the end of each month the provider agency shall prepare Form AA–2241–0, Purchase of Service Provider Invoice, for contractual services provided by the agency during the month.

Separate invoices shall be prepared for each county from which clients were referred and each program. Complete invoices shall be sent to the department county office responsible for the client for approval and forwarding for payment.

Providers shall never bill for more than one month of service. A separate invoice is required for each separate month of service, even if the service span overlaps one month.

185.121(1) *Time limit for submitting invoices.* The time limit for submission of original invoices shall be 90 days from the date of service, except at the end of the state fiscal year when claims for services through June 30 are to be submitted by August 10.

185.121(2) *Resubmittals of rejected claims.* Valid claims which were originally submitted within the time limit specified in 185.121(1) but were rejected because of an error shall be resubmitted as soon as corrections can be made.

185.121(3) *Payment.* Within 60 days of the date of receipt of a valid invoice, the department shall make payment in full of all invoices concerning rehabilitative treatment and supportive services rendered to clients, provided the invoices shall be subject to audit and adjustment by the department.

441—185.122(234) Recoupment procedures. Public agencies that are reimbursed more than their actual costs are required to refund any excess to the department within four months of the end of their fiscal year. No provision for profit or other increment above cost is intended in OMB Circular A–87 for public agencies. Those public providers subject to this provision who fail to comply with this requirement shall be considered to be in violation of 185.12(1)"*r*" and subject to sanctions. Providers who do not refund any excess payments within six months of the end of their fiscal year shall be given notice in accordance with 185.12(6) and have any and all payments suspended or withheld in accordance with 185.12(7).

These rules are intended to implement Iowa Code sections 234.6 and 234.38.

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*Rule 185.4(234), subrule 185.8(4) and rule 185.9(234), effective 8/12/93.
**Effective date of 185.22(1)"*d*,"(2)"*d*," and (3)"*d*," 185.42(3), 185.62(1)"*d*,"(2)"*d*," and (3)"*d*," and 441—185.82(234) delayed 70 days by the Administrative Rules Review Committee at its meeting held July 11, 1995.
◊Two ARCs

"Home food establishment" means a business on the premises of a residence where potentially hazardous bakery goods are prepared for consumption elsewhere. Annual gross sales of these products cannot exceed $20,000. This term does not include a residence where food is prepared to be used or sold by churches, fraternal societies, or charitable, civic or nonprofit organizations. Residences which prepare or distribute honey, shell eggs or nonhazardous baked goods are not required to be licensed as home food establishments. Home food establishments with annual gross sales of $1,000 or less in sales of potentially hazardous bakery products are exempt from licensing under Iowa Code section 137D.2, if the food is labeled and the label states that the food comes from a kitchen not under state inspection or licensure and that labeling complies with rule 481—34.3(137D).

"Hotel" means any building equipped, used or advertised to the public as a place where sleeping accommodations are rented to temporary or transient guests.

"License holder" means an individual, corporation, partnership, governmental unit, association or any other entity to whom a license was issued under Iowa Code chapter 137C, 137D or 137F.

"Mobile food unit" means a food establishment that is readily movable, which either operates up to three consecutive days at one location or returns to a home base of operation at the end of each day.

"Panned candies" are those with a fine hard coating on the outside and a soft candy filling on the inside. Panned candies are easily dispensed by a gumball-type machine.

"Potentially hazardous food" means a food that is natural or synthetic and is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, or the growth and toxin production of clostridium botulinum. "Potentially hazardous food" includes an animal food that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, and garlic and oil mixtures. "Potentially hazardous food" does not include the following:

1. An air-cooled hard-boiled egg with shell intact.
2. A food with a water activity value of 0.85 or less.
3. A food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees Centigrade or 75 degrees Fahrenheit.
4. A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution.

"Pushcart" means a non-self-propelled vehicle food establishment limited to serving nonpotentially hazardous foods or commissary-wrapped foods maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

"Retail food establishment" means a food establishment that sells food or food products to consumer customers intended for preparation or consumption off the premises.

"Revoke" means to void or annul by recalling or withdrawing a license issued under Iowa Code chapter 137C, 137D or 137F. The entire application process, including the payment of applicable license fees, must be repeated to regain a valid license following a revocation.

"Salvage food" means food from truck wrecks, fires, tornadoes or other disasters which involve food products.

"Suspend" means to render a license issued under Iowa Code chapter 137C, 137D, 137F or 196 invalid for a period of time, with the intent of resuming the validity of a license at the end of that period.

"Temporary food establishment" means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

"Transient guest" means an overnight lodging guest who does not intend to stay for any permanent length of time. Any guest who rents a room for more than 31 consecutive days is not classified as a transient guest.

"Vending machine" means a food establishment which is a self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation. Vending machines that dispense only prepackaged, nonpotentially hazardous foods, panned candies, gumballs or nuts are exempt from licensing, but may be inspected by the department upon receipt of a written complaint.

481—30.3(137C,137D,137F,196) Licensing. A license to operate any of the above must be granted by the department of inspections and appeals. Application for a license is made on a form furnished by the department which contains the names of the business, owner, and manager; location of buildings; or other data relative to the license requested. Applications are available from the Inspections Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

30.3(1) A license is not transferable. Licenses are not refundable unless the license is surrendered to the department prior to the effective date of the license.

30.3(2) A license is renewable and expires after one year.

30.3(3) A valid license shall be posted no higher than eye level where the public can see it. Vending machines shall bear a tag to affirm the license.

***30.3(4)** Any change in business ownership or business location requires a new license. Vending machines, mobile food units and pushcarts may be moved without obtaining a new license. A farmers market potentially hazardous food license may be used in the same county at different individual locations without obtaining a new license. Multiple locations operated simultaneously each require a separate license. Nutrition sites for the elderly licensed under Iowa Code chapter 137F may change locations in the same city without obtaining a new license.

30.3(5) The regulatory authority may require documentation from a license holder of the annual gross sales of food and drink sold by a licensed food establishment or a licensed food processing establishment. The documentation submitted by the license holder will be kept confidential and will be used to verify that the license holder is paying the appropriate license fee based on annual gross sales of food and drink. Documentation shall include at least one of the following:

a. A copy of the firm's business tax return;

b. Quarterly sales tax data;

c. A letter from an independent tax preparer;

d. Other appropriate records.

This rule is intended to implement Iowa Code sections 10A.502(2), 137C.8, 137D.2 and 137F.4 to 137F.6 as amended by 2002 Iowa Acts, House File 2620.

481—30.4(137C,137D,196) License fees. The license fee is the same for an initial license and a renewal license. Licenses expire one year from the date of issuance, except for temporary food establishments. Applications for licenses are available from the Department of Inspections and Appeals, Inspections Division, Lucas State Office Building, Des Moines, Iowa 50319-0083; or from a contracting local health department. License fees are set by the Iowa Code sections listed below and charged as follows:

30.4(1) Retail food establishments are based on annual gross sales of food or food products to consumer customers intended for preparation or consumption off the premises (Iowa Code section 137F.6) as follows:

a. For annual gross sales of less than $10,000—$30;

b. For annual gross sales of $10,000 to $250,000—$75;

c. For annual gross sales of $250,000 to $500,000—$115;

d. For annual gross sales of $500,000 to $750,000—$150;

e. For annual gross sales of $750,000 or more—$225.

30.4(2) Food service establishments are based on annual gross sales of food and drink for individual portion service intended for consumption on the premises (Iowa Code section 137F.6) or subject to Iowa sales tax as provided in Iowa Code section 422.45 as follows:

a. For annual gross sales of less than $50,000—$50;

b. For annual gross sales of $50,000 to $100,000—$85;

c. For annual gross sales of $100,000 to $250,000—$175;

d. For annual gross sales of $250,000 to $500,000—$200;

e. For annual gross sales of $500,000 or more—$225.

*Objection imposed by the Administrative Rules Review Committee at its meeting held September 10, 2002; objection filed September 23, 2002. See text of Objection at the end of this chapter.

30.4(3) Food and beverage vending machines, $20 for the first machine and $5 for each additional machine (Iowa Code section 137F.6).

30.4(4) Home food establishments, $25 (Iowa Code section 137D.2(1)).

30.4(5) Hotels are based on the number of rooms provided to transient guests (Iowa Code section 137C.9) as follows:

a. For 1 to 15 guest rooms—$20;

b. For 16 to 30 guest rooms—$30;

c. For 31 to 75 guest rooms—$40;

d. For 76 to 149 guest rooms—$50;

e. For 150 or more guest rooms—$75.

30.4(6) Mobile food unit or pushcart, $20 (Iowa Code section 137F.6).

30.4(7) Temporary food service establishments issued for up to 14 consecutive days in conjunction with a single event or celebration, $25 (Iowa Code section 137F.6).

A temporary food establishment license for a temporary food establishment located in a farmers market is valid at that site until December 31, 2001, provided the food establishment does not operate more than 14 consecutive days at this location. This paragraph will expire as of January 1, 2002.

30.4(8) For food processing plants, the annual license fee is based on the annual gross sales of food and food products handled at that plant or warehouse (Iowa Code section 137F.6) as follows:

a. Annual gross sales of less than $50,000—$50;

b. Annual gross sales of $50,000 to $250,000—$100;

c. Annual gross sales of $250,000 to $500,000—$150;

d. Annual gross sales of $500,000 or more—$250.

30.4(9) Egg handlers are based on the total number of cases of eggs purchased or handled during the month of April (Iowa Code section 196.3) as follows:

a. For less than 125 cases—$15;

b. For 125 to 249 cases—$35;

c. For 250 to 999 cases—$50;

d. For 1,000 to 4,999 cases—$100;

e. For 5,000 to 9,999 cases—$175;

f. For 10,000 or more cases—$250.

For the purpose of determining fees, each case shall be 30 dozen eggs.

***30.4(10)** Pursuant to 2002 Iowa Acts, House File 2620, section 2, a person selling potentially hazardous food at a farmers market must pay an annual license fee of $100 for each county of operation. Persons who operate simultaneously at more than one location within a county are required to have a separate license for each location.

481—30.5(137F) Penalty and delinquent fees.

30.5(1) Food establishment licenses and food processing plant licenses that are renewed by the licensee after the license expiration date shall be subject to a penalty of 10 percent of the license fee per month.

30.5(2) A person who opens or operates a food establishment or food processing plant without a license is subject to a penalty of up to twice the amount of the annual license fee.

30.5(3) A person who violates Iowa Code chapter 137F or these rules shall be subject to a civil penalty of $100 for each violation. Prior to the assessment of any civil penalties, a hearing conducted by the appeals division in the department of inspections and appeals must be provided as required in rule 481—30.13(10A).

This rule is intended to implement Iowa Code sections 137F.4, 137F.9 and 137F.17.

*Objection imposed by the Administrative Rules Review Committee at its meeting held September 10, 2002; objection filed September 23, 2002. See text of Objection at the end of this chapter.

481—30.6(137C,137D,137F,196) Returned checks. If a check intended to pay for any license provided for under Iowa Code chapters 137C, 137D, 137F or 196, is not honored for payment by the bank on which it is drafted, the department will attempt to redeem the check. The department will notify the applicant of the need to provide sufficient payment. An additional fee of $25 shall be assessed for each dishonored check. If the department does not receive cash to replace the check, the establishment will be operating without a valid license.

481—30.7(137F) Double licenses.

30.7(1) Any establishment which holds a food service establishment license and has gross sales over $20,000 annually in packaged food items intended for consumption off the premises shall also be required to obtain a retail food establishment license.

The license holder shall keep a record of these food sales and make it available to the department upon request.

30.7(2) A retail food establishment and a food service establishment which occupy the same premises must be licensed separately and the applicable fees paid. The license fee for each is based on only the annual gross sales of food and drink covered under the scope of that particular type of license.

30.7(3) A food establishment that is licensed both with a food service establishment license and a retail food establishment license shall pay 75 percent of the license fees required in subrules 30.4(1) and 30.4(2).

30.7(4) Licensed retail food establishments serving only coffee, soft drinks, popcorn, prepackaged sandwiches or other food items manufactured and packaged by a licensed establishment need only obtain a retail food establishment license.

30.7(5) A temporary food establishment license is not required when the temporary food establishment is owned and operated on the premises of a licensed food establishment.

30.7(6) The dominant form of business in annual gross sales shall determine the type of license for establishments which engage in operations covered under both the definition of a food establishment and a food processing plant. Sale of products at wholesale to outlets not owned by a commissary owner requires a food processing plant license. Food establishments that process low-acid food in hermetically sealed containers or process acidified foods are required to have a food processing plant license.

30.7(7) A licensed mobile food unit that operates as a licensed mobile food unit at a farmers market is not required to obtain a separate farmers market potentially hazardous food license.

This rule is intended to implement Iowa Code sections 10A.502 and 137F.6 as amended by 2002 Iowa Acts, House File 2620.

481—30.8(137C,137D,137F) Inspection frequency.

30.8(1) Food establishments shall be inspected at an interval specified in Section 8-401.10 of the Food Code Recommendations of the Food and Drug Administration. Food service operations in schools, summer camps, assisted living facilities, residential service substance abuse treatment facilities, halfway house substance abuse treatment facilities, correctional facilities operated by the department of corrections, the state training school, and the Iowa juvenile home shall be inspected at least once annually.

30.8(2) Food processing plants shall be inspected at least annually.

30.8(3) Hotels shall be inspected at least once biennially.

30.8(4) Home food establishments and vending machine license holders shall be inspected at least once annually.

30.8(5) Egg handlers shall be inspected at least once annually.

30.8(6) Farmers market potentially hazardous food licensees shall be inspected at least annually.

This rule is intended to implement Iowa Code sections 137C.11, 137D.2, 137F.2 and 196.2.

OBJECTION

At its September 10, 2002, meeting the Administrative Rules Review Committee voted to object to the provisions of ARC 1760B, items three and four, on the grounds those items exceed the authority of the Department of Inspections and Appeals. The committee also objects to the "emergency" adoption and implementation of these provisions. Committee members felt that a notice of intended action would have provided an opportunity to discuss and resolve these issues before the licensing provisions were implemented.

These provisions implement 2002 Iowa Acts, House File 2620, creating a special license for vendors at farmers markets. Section two of the Act states:

For a farmers market where potentially hazardous food is sold or distributed, one seasonal license fee of one hundred dollars for each vendor on a countywide basis.

It is the opinion of the committee this provision means that a vendor may simultaneously operate a number of stands at a number of locations within a single county for a single fee. Members felt the phrase "countywide basis" evidenced a legislative intent that the vendor could operate anywhere within that county at any time. The interpretation set out in ARC 1760B would require a separate license for each separate farmers market where the vendor simultaneously operates.

This action is taken pursuant to the authority of Iowa Code §17A.4. The effect of this objection is to terminate the emergency filing 180 days after this objection is filed.

Objection filed September 23, 2002.

NATURAL RESOURCE COMMISSION[571]

[Prior to 12/31/86, see Conservation Commission [290], renamed Natural Resource Commission[571] under the "umbrella" of Department of Natural Resources by 1986 Iowa Acts, chapter 1245]

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CHAPTER 16
PUBLIC, COMMERCIAL, PRIVATE DOCKS AND DOCK MANAGEMENT AREAS

[Prior to 12/31/86, Conservation Commission[290] Ch 33]

571—16.1(461A) Definitions. For the purpose of this rule, the following terms are used:

"All docks" means private docks, public docks, commercial docks, and docks constructed in dock management areas.

"Catwalk" means a walkway constructed for access from the dock to moored vessels or boat storage structures and is considered a part of the dock.

"Commercial dock" means any dock on or over waters under the jurisdiction of the commission in which the use or operation of the dock involves a fee, directly or indirectly.

"Commission" means the natural resource commission.

"Department" means the department of natural resources.

"Director" shall mean the director of the department of natural resources.

"Dock management area" means those areas adjacent to publicly owned riparian land or a specially developed harbor area, either of which has been designated a dock management area by the department of natural resources.

"General permit" means a permit issued as a rule of this chapter to authorize maintenance of an eligible class of private docks. The owner of a private dock that is eligible for coverage under a general permit need not file an individual dock permit application. Unless otherwise specified, a general permit is valid for five years.

"Lakes" includes all natural lakes and artificial lakes to which the public has lawful access from land or from a navigable stream inlet, excepting river impoundments as defined in this rule.

"Private dock" means a dock extending from the private property of a riparian landowner and constructed on or over waters under the jurisdiction of the natural resource commission and which is not used as a marina or for other commercial purposes or made available for public use.

"Public dock" means a dock over waters under the jurisdiction of the commission extending from riparian public land or from private land to which the public has been granted a license to travel and either of which is open to public use.

"River impoundments" means all pools upstream from dams on meandered and nonmeandered rivers. Examples are Lake Panorama, Lake Delhi and Lake Nashua.

"Slip" means a mooring site adjacent to a dock.

571—16.2(461A) When dock permit required. No person shall construct a private dock, public dock, or commercial dock on a lake, river, or river impoundment without first obtaining a permit from the department. Individual permits must be obtained for all public and commercial docks. Individual permits must be obtained for all private docks which do not conform to the general permit criteria in 571—16.3(461A) or 16.4(461A).

571—16.3(461A) General permit for certain private docks on lakes. This rule constitutes a general permit for certain private docks on lakes as defined in 571—16.1(461A). This general permit expires March 1, 2005. This general permit authorizes maintenance of private docks conforming to the standard conditions set forth in 571—16.5(461A) and the following additional criteria:

16.3(1) *Spacing and alignment.* The dock shall be offset at least 25 feet from the nearest adjoining property boundary and at least 50 feet from the nearest other lawful dock. If these offsets are impossible due to the narrowness of the riparian parcel, the dock shall be located to conform as nearly as reasonably possible to these minimum offsets. The dock must be aligned so as not to cross the projection of the adjoining property line into the lake.

16.3(2) *Dimensions.* The width shall be not less than 3 nor more than 6 feet. The total length of the dock shall not exceed 100 feet measured from the ordinary high water line of the lake as determined by the department. However, the director may authorize a temporary extension of length as reasonably needed during low lake levels.

16.3(3) *Configuration.* Docks offset at least 25 feet from the nearest adjoining property boundary will be allowed one segment which is at an angle to the dock. This segment and the dock must be offset at least 50 feet from any lawful dock. This segment shall not be longer than 16 feet, measured along its angle to the dock and including the width of the dock, and shall not create a platform larger that 168 square feet. If the segment is less than 25 feet from the nearest adjoining property boundary or less than 50 feet from the nearest lawful dock, it may not be longer than 8 feet, measured along its angle to the dock and including the width of the dock, and shall not create a platform larger than 80 square feet. These segments may not be less than 30 feet from another lawful dock.

16.3(4) *Hoists and other adjacent structures.* A hoist or other boat storage structure shall not be placed adjacent to any segment more than 6 feet wide.

16.3(5) *Enclosed docks.* Sides or roofs shall not enclose private docks on lakes.

571—16.4(461A) General permit for certain private docks on rivers and river impoundments. This rule constitutes a general permit for certain private docks on rivers and river impoundments as defined in 571—16.1(461A). This general permit expires March 1, 1999. This general permit authorizes maintenance of private docks conforming to the standard conditions set forth in 571—16.5(461A) and the following additional criteria:

16.4(1) *Spacing and alignment.* The dock shall be offset at least 25 feet from the nearest adjoining property boundary and at least 50 feet from the nearest other lawful dock. If these offsets are impossible due to the narrowness of the riparian parcel, the dock shall be located to conform as nearly as reasonably possible to these minimum offsets. The dock must be aligned so as not to cross the projection of the adjoining property line into the river or river impoundment.

16.4(2) *Dimensions.* The width shall be not less than 3 nor more than 6 feet. The total length of the dock shall not exceed the lesser of 50 feet or one-fourth of the width of the waterway measured from the water's edge at normal river stage.

16.4(3) *Configuration.* Docks on rivers and river impoundments will be allowed segments which are at an angle to the dock. These segments may not exceed 25 feet in length, measured along their angle to the dock, and these segments must be at least 3 feet wide and may not exceed 6 feet in width. There may be two of these segments on one side of the dock, but not one on each side of the dock if the result would cause the frontage to exceed 25 feet.

16.4(4) *Hoists and other adjacent structures.* A hoist or other boat storage structure shall not be placed upstream or downstream from any dock segment more than 6 feet wide.

16.4(5) *Anchoring.* All river docks must be securely anchored to prevent them from becoming floating hazards during times of high river flows.

16.4(6) *Enclosed docks.* Sides or roofs shall not enclose private docks on rivers or river impoundments.

571—16.5(461A) Standard requirements for all docks. All docks shall be subject to the following requirements:

16.5(1) *Display of numbers.* The number of the dock permit when required or the name and address of the owner shall be displayed on the water end of the dock, facing away from the shore and plainly visible, in block numbers of good proportion and in a color contrasting to the background.

16.5(2) *Removal and reconstruction of docks.* All docks must be removed from the waters of this state before December 15 of each year and not reconstructed until the following spring, except those exempted by individual permit from the director.

16.5(3) *Flotation specifications.* All new structures, if a floating facility, authorized by permit shall use flotation methods and devices of a type constructed of low density, closed cell, rigid plastic foam; high impact polyethylene fiberglass material; wood timbers; or other inert materials to provide flotation.

16.5(4) *Floating containers.* Synthetic (such as plastic or fiberglass) or metal containers not originally manufactured as flotation devices may be used as dock flotation devices if the following conditions are met: All containers must be cleaned of any product residue; all synthetic containers must be sealed and watertight; and all metal containers must be filled with a closed cell rigid plastic foam and the container sealed and watertight.

16.5(5) *Cannot be used for habitation.* Docks shall not be designed, intended, or used for human habitation.

16.5(6) *Flow of water.* All docks shall be constructed and placed in a manner which allows the free flow of water beneath them.

16.5(7) *Interference with navigation.* The construction activity, structure, or use of a structure authorized by a dock permit shall not result in unreasonable interference with navigation.

16.5(8) *Impacts on natural resources.* The permittee shall make every reasonable effort to construct the dock authorized by an approved dock permit in a manner so as to minimize any adverse impact on fish, wildlife, water quality, and natural environmental values.

16.5(9) *Storage, use, and dispensing of fuel.* The storage, use, or dispensing of any fuel on a dock on or over public water or adjacent public land shall be in compliance with Iowa Code chapter 101 and all rules promulgated thereunder.

16.5(10) *Electrical service.* Any electrical service on or leading to any dock used for storage or dispensing of fuel must comply with the National Electric Code, latest revision. All electrical service leading to docks shall include ground fault circuit protection.

16.5(11) *Activities and structures must comply with permit.* All activities and structures authorized by a dock permit must comply with the requirements of the permit and the permittee shall maintain the structure or work authorized by the permit.

16.5(12) *Permit limitations.* A dock permit shall not be construed to do more than give the permittee the right to construct a dock. The permit creates no interests, personal or real, in the real estate below the ordinary high water line nor does it relieve the requirement to obtain federal or local assent when required by law for such activity.

16.5(13) *Permanent structures.* All docks, piers, or wharves which cannot by removed or stored in an approved location shall be considered permanent structures and shall be subject to 571—Chapter 18 or 571—Chapter 13, Iowa Administrative Code, as appropriate, and other regulations covering permanent structures.

16.5(14) *Permits and privileges are not transferable.* Individual dock permits shall not be transferable, and when the permittee desires to abandon the dock or activity authorized by the permit, the area must be restored to a condition satisfactory to the department of natural resources. An individual permit shall be valid only while the permittee has the necessary permissions to use the adjoining riparian land from which the dock projects.

16.5(15) *Right to inspection.* The permit shall allow the director or the director's representative to make inspections, at any and all reasonable times, of docks authorized by the permit in order to ensure that the activity being performed or the structure constructed is safe and in accordance with the terms and conditions of the permit and this rule.

16.5(16) *Suspension, modification, or revocation of permits.* An individual dock permit or the applicability of a general permit to a specific dock may be modified, suspended, or revoked by written notice, in whole or in part, if the director or the director's representative determines that the dock is not safe or that a violation of any terms or conditions of the permit has occurred or that continuation of the permit is not in the public interest. Such modification, suspension, or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the modification, suspension, or revocation, the reasons for the action, and any corrective or preventative measures to be taken by the permittee to bring the dock, structure, or activity into compliance. Within 30 days following receipt of the notice of a revocation or modification, or during the course of a suspension, the permittee may request a hearing in order to present information demonstrating that the alleged violation did not occur, or that required corrective and preventative measures have been taken, or any other information relevant to a decision as to whether the permit should be reinstated, modified, or revoked. The hearing shall be conducted as prescribed by 571—Chapter 7. After completion of the hearing, a final decision will be made concerning the status of the permit. In the event that no hearing is requested, notices of modification and revocation shall remain in effect and suspended permits shall be either reinstated, modified, or revoked.

16.5(17) *Persons affected—hearing request.* Any person adversely affected by an individual dock permit or the applicability of a general permit to a specific dock may request, in writing, a hearing to reconsider the permit. Requests for hearings shall show cause and shall be made in accordance with procedures described in 571—Chapter 7.

16.5(18) *Claims for damages.* Any modification, suspension, or revocation of a dock permit shall not be the basis for any claim for damages against the state of Iowa or the department of natural resources.

16.5(19) *Liability for damage from wake or high water.* The issuance of a dock permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted and the safety of boats moored thereto from damage by wave wash or high water conditions, and the permittee shall not hold the state of Iowa or the department of natural resources liable for any such damage.

16.5(20) *Restriction of navigation prohibited.* No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity or structure authorized by a dock permit.

16.5(21) *Expiration of permits.* The term of an individual permit shall not exceed five years. Renewals shall be requested on the same form as an original permit.

16.5(22) *Protected waters area.* Special restrictions may be placed on docks which are in a component of a state protected waters area as necessary to protect the natural features of the designated area.

16.5(23) *Fill prohibited.* No fill may be placed in a water body in association with construction of a dock unless placement of such fill is specifically authorized by permit and the permittee has obtained all other permits required to authorize deposit of such fill.

16.5(24) *Catwalks.* A catwalk shall be at least 2 feet wide and considered a part of the dock. Catwalks shall be limited in length as is any segment of the dock which is at an angle to the dock.

16.5(25) *Enclosed hoists and slips.* Hoists and slips may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft.

571—16.6(461A) Applications for individual dock permits.

16.6(1) *Application forms.* A person requesting a dock permit shall apply on the form furnished by the department. The form is the "Dock Application and Permit" form or the "Dock Assignment and Permit" form. If the applicant is not the owner of the adjoining riparian land, the application must include a signed declaration that the applicant is the lessee of the adjoining riparian land.

16.6(2) *Plans, drawings and application fee.* The application form shall be accompanied by accurate plans and drawings as specified on the form and the application fee established in 571—16.10(461A). Approved plans and drawings shall be incorporated as part of the dock permit.

571—16.7(461A) Criteria for individual private dock permits. The director or the director's designee may approve issuance of a permit for a private dock which does not conform to one or more of the applicable "general permit" criteria in these rules. To be eligible for an individual permit the applicant must provide information supporting a determination that good cause exists for issuance of a permit and that neither public nor private rights will be adversely affected by issuance of the permit.

571—16.8(461A) Additional requirements for public and commercial docks. The following specifications shall apply to all commercial and public docks constructed on lakes and rivers.

16.8(1) *Width and strength of docks.* All commercial and public docks not within a dock management area shall be at least 4 feet wide and constructed of sound, strong material capable of withstanding the normal severe wind conditions for the area of their location.

16.8(2) *Length and shape of docks.* The length and shape of all commercial and public docks will be considered on an individual basis and in doing so will take into consideration the natural features of the water area including stream or lake bed, size of the applicant's land area, degree of interference with navigation and other approved activities for the area, the public need for such service and public safety.

16.8(3) *Posting of public docks.* All public docks permitted under the terms of this chapter shall be posted from the shore end in legible lettering as "public docks."

16.8(4) *Use of public docks.* Public docks shall be available for use by the general public under the terms and conditions of the permit or as posted at the dock site.

16.8(5) *Marking of slips.* On all commercial docks each mooring site (slip) shall be marked by an identifying number or letter, block style at least 3 inches high of contrasting color and located uniformly near the vessel's bow location.

16.8(6) *Sanitary facilities.* Boat holding tank pump-off facilities, rest rooms, concessions, and any other facility which has waste effluent shall be designed and constructed to pump all effluent directly to an approved sewer line, septic tank, or other approved sanitary facility on land. The pump, line, and all attachments shall be constructed without valves, caps or any other design which can easily be opened to permit material to be discharged into the water. No storage of effluent is permitted in or over the water. The effluent line shall have a valve at an approved location on land to prevent any material from returning to the lake or stream if the line should break or is opened for any reason. All sanitary facilities shall meet the requirements of Iowa Code chapter 455B and shall be subject to inspection at any time.

16.8(7) *Catwalks.* Rescinded IAB 6/8/94, effective 7/13/94.

16.8(8) *Distance.* Commercial docks shall be constructed not less than 20 feet from the riparian property line unless the director finds that shallow water, the width of the lot, or other adverse conditions make a dock site required in this subrule unusable.

16.8(9) *Land use restrictions.* Nothing shall be constructed or placed on public land adjacent to any public or commercial dock permitted under this rule unless the construction or placement is a necessary appurtenance to the dock as determined by the director or the director's representative.

16.8(10) *Enclosed commercial docks.* Commercial docks will be considered for enclosure by roofs and sides on an individual basis, and in doing so the department will take into consideration the natural features including the water area, the size of the applicant's land area, degree of interference with navigation and other approved activities for the area, the public need for such service and public safety.

571—16.9(461A) Establishment of dock management areas. Where lands under the jurisdiction of the commission or other public body are on or adjacent to the ordinary high water line of waters under the jurisdiction of the commission, the director may designate the areas or a portion of them as dock management areas. Docks in a dock management area which are constructed off from public property are public docks. However, the permittees have priority use of the docks. The docks may be used by the public for fishing and emergency mooring when such use does not interfere with the permittee's use. Other uses allowed by the permittee shall be the responsibility of the permittee.

16.9(1) *Dock sites.* The director or the director's representative shall designate dock sites on dock management areas. All designated dock sites shall meet the following criteria:

a. Except in the confines of artificially constructed lagoon or harbor areas, the dock sites shall be at least 50 feet apart;

b. Where water level and bottom configuration and other conditions permit, two or more families shall share a single dock site;

c. Except in the confines of artificially constructed lagoon or harbor areas, all docks constructed in a dock management area shall be 4 feet wide and meet the "L" or "T" requirements and construction requirements or limitations of this chapter.

d. In the confines of artificially constructed lagoon and harbor areas, the configuration and dimensions of the docks and catwalks shall be determined on an individual areas basis taking into consideration the physical characteristics of the area, the mooring pattern of boats, and public safety.

e. All dock sites in a dock management area shall be marked by identifying signs furnished by the department and placed at locations determined by the area manager.

16.9(2) *Management agreements.* The department of natural resources under Iowa Code chapter 28E may relinquish to a political subdivision the management of a "dock management area." In this case, the agreement and its administration shall be in compliance with this chapter (571—Chapter 16).

16.9(3) *Commercial docks in dock management areas.* Commercial docks in dock management areas are considered concession operations and shall be subject to 571—Chapter 14, Iowa Administrative Code. Commercial docks in dock management areas that are also under management of a political subdivision under Iowa Code chapter 28E may be subject to concession operations regulations of the political subdivision in lieu of 571—Chapter 14, Iowa Administrative Code.

571—16.10(461A) Fees for commercial docks, enclosed commercial docks, docks in dock management areas and private docks requiring an individual permit.

16.10(1) *Fees for commercial docks.* The following annual fees shall apply to each commercial dock that provides slips for boats other than those owned by the applicant and is used to carry on commerce under riparian rights.

1. $2 per slip to accommodate boats up to 26 feet in length.
2. $4 per slip to accommodate boats over 26 feet in length.

16.10(2) *Fees for enclosed commercial docks.* The following annual fees shall apply to each commercial dock constructed with a roof or one or more sides enclosed, in addition to all other required fees.

1. $50 for docks up to 15 feet wide and less than 20 feet long.
2. $75 for docks more than 15 feet wide and less than 20 feet wide and less than 24 feet long.
3. $100 for docks more than 20 feet wide and less than 24 feet wide and less than 28 feet long.
4. Proportionate to the above width and length fees for docks more than 25 feet wide and more than 28 feet long.

16.10(3) *Fees for docks in dock management areas.* In each dock management area, the department of natural resources shall evaluate the benefits to the dock applicant and establish a dock permit and hoist or mooring fee based on the following criteria:

1. The desirability of the water;
2. The placement of the dock and area on the water;
3. The public benefit or inconvenience;
4. The private benefit;
5. Comparable docking fees.

16.10(4) *Fees for private docks.* A fee of $25 per year shall be assessed on private docks requiring an individual permit. The fees shall be paid, upon application, for the requested term of the permit.

16.10(5) *Payment of fees.* Payment of the annual fee for commercial docks, docks in dock management areas, and private docks requiring an individual permit shall be made upon application and may be paid in a lump sum in advance for the term of the permit. Permits issued under the rule for which the annual fee has not been paid by April 1 of any year are void but may be reinstated by payment of all fees due for the year reinstatement is sought, as well as any prior years in the term of the permit for which an annual fee has not been paid. Payment of any fee under this rule shall be made to the department of natural resources.

571—16.11(461A) Liability. Neither the department of natural resources nor the state of Iowa will be responsible for any injury to persons or damage to property arising out of or incidental to the construction, use, or storage of any dock for which the department of natural resources has issued a permit, howsoever the injury or damage may be caused. The permittee, and if the riparian owner is not the permittee, the riparian owner as well shall indemnify and save the department of natural resources and the state of Iowa harmless from any and all claims for any injury or damage, excepting claims for injury or damage arising from activities of the department of natural resources or the state in the use of the dock which are being conducted exclusively for the benefit of the department of natural resources or the state.

These rules are intended to implement Iowa Code sections 461A.4, 461A.25, and 462A.32(2).

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CHAPTER 104
WILDLIFE IMPORTATION, TRANSPORTATION AND DISEASE MONITORING

571—104.1(481A) Definitions.

"Accredited veterinarian" means a veterinarian approved by the deputy administrator of veterinary services, Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1, of the Code of Federal Regulations, revised as of January 1, 2000, to perform functions required by cooperative state/federal animal disease control and eradication programs.

"Adjacent herd" means one of the following:

1. A herd of Cervidae occupying premises that border an affected herd, including herds separated by roads or streams.

2. A herd of Cervidae occupying premises that were previously occupied by an affected herd within the past five years as determined by the department.

"Affected herd" means a cervid herd from which any animal has been diagnosed as affected with chronic wasting disease (CWD) and which has not been in compliance with the control program for CWD as described in rules 571—104.2(481A) through 571—104.22(481A).

"Approved laboratory" means an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory or the National Veterinary Services Laboratory, Ames, Iowa.

"Brucellosis" means bovine brucellosis.

"Captive cervid" means all cervidae that are legally acquired and held on private property for personal use or use by others.

"Certificate" means an official document, issued by a state veterinarian or federal animal health official or an accredited veterinarian at the point of origin, containing information on the individual identification of each animal being moved, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, and any other information required by the department.

"Certificate of veterinary inspection" means an approved certificate of veterinary inspection which is a legible record accomplished on an official form of the state or province of origin, issued by a licensed, accredited veterinarian and approved by the livestock sanitary official of the state or province of origin; or an equivalent form of the U.S. Department of Agriculture issued by a federally employed veterinarian.

"Certified CWD cervid herd" means a herd of Cervidae that has met the qualifications for and has been issued a certified CWD cervid herd certificate signed by the department.

"Cervidae" or *"cervids"* means any member of the Cervidae family, whether free ranging or captive, except those classified as farm deer by Iowa Code section 481A.1(20)*"h."* Only members of the species dama dama (fallow deer), cervus nippon (sika deer), and captive cervus elaphus (elk and red deer) are not included. "Farm deer" does not include any unmarked free ranging elk, moose or caribou.

"Cervid CWD surveillance identification program" or *"CCWDSI program"* means a CWD surveillance program that requires identification and laboratory diagnosis on all deaths of Cervidae over six months of age including, but not limited to, deaths by slaughter, hunting, illness, and injury. A copy of approved laboratory reports shall be maintained by the owner for purposes of completion of the annual inventory examination for recertification. Such diagnosis shall include examination of brain and any other tissue as directed by the department. If there are deaths for which tissues were not submitted for laboratory diagnosis due to postmortem changes or unavailability, the department shall determine compliance.

"Cervid herd" means a group of Cervidae or one or more groups of Cervidae maintained on common ground or under common ownership or supervision that are geographically separated but can have interchange or movement.

"CWD" means chronic wasting disease, an infectious and contagious disease of cervids.

"CWD affected" means a designation applied to Cervidae diagnosed as affected with CWD based on laboratory results, clinical signs, or epidemiological investigation.

"CWD exposed" or *"exposed"* means a designation applied to Cervidae that are either part of an affected herd or for which epidemiological investigation indicates contact with CWD affected animals or contact with animals from a CWD affected herd in the past five years.

"CWD suspect" means a designation applied to Cervidae for which laboratory evidence or clinical signs suggest a diagnosis of CWD but for which laboratory results are inconclusive.

"Department" means the department of natural resources or its designee.

"Designated epidemiologist" means a person who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the department.

"Endemic area" means an area or portion of a state or province where CWD or TB has been confirmed in either wild or captive cervids. The endemic area shall be determined by the state veterinarian or designee of the state or province of the cervid's origin.

"Group" means one or more Cervidae.

"Herd of origin" means a cervid herd or any farm or other premises where the animals were born or where they currently reside.

"Herd plan" means a written herd management and testing plan that is designed by the herd owner, the owner's veterinarian, if requested, and a designated epidemiologist to identify and eradicate CWD from an affected, exposed, or adjacent herd.

"Monitored CWD cervid herd" means a herd of Cervidae that is in compliance with the CCWDSI program as defined in this rule. Monitored herds are defined as one-year, two-year, three-year, four-year, and five-year monitored herds in accordance with the time in years such herds have been in compliance with the CCWDSI program.

"Permit" means an official document that is issued by the department or USDA area veterinarian-in-charge or an accredited veterinarian for movement of affected, suspect, or exposed animals.

"Quarantine" means an imposed restriction prohibiting movement of cervids to any location without specific written permits.

"State" means any state of the United States; the District of Columbia; Puerto Rico; the U.S. Virgin Islands; or Guam.

"TB" means bovine tuberculosis.

"Trace back" means the process of identifying the herd of origin of CWD positive animals, including herds that were sold for slaughter.

571—104.2(481A) Chronic wasting disease in captive cervids.

104.2(1) *Testing required.* A person who keeps captive cervids in this state shall have chronic wasting disease tests performed on the following:

a. Any captive cervid that dies or is killed on the premises. A person trained and authorized shall collect the test sample before any part of the carcass is removed from the herd premises and shall submit the sample for testing at an approved laboratory. This paragraph does not apply to cervids less than six months old.

b. Any captive cervid that is shipped to slaughter from the herd premises. A person trained and authorized shall collect the test sample after the cervid is slaughtered and shall submit the sample for testing at an approved laboratory. This paragraph does not apply to cervids less than six months old.

104.2(2) *Moving live captive cervids from herds in this state.* A person shall not move a live captive cervid from a herd in this state unless the movement complies with these rules.

104.2(3) *Collecting test samples.* One of the following persons shall collect a test sample and submit it for testing:

a. A certified veterinarian.

b. An employee of the department authorized by the department.

c. A person approved by the department. Before a person collects a test sample, that person shall complete training approved by the department. The person shall comply with standard veterinary procedures when collecting a test sample.

104.2(4) *Reporting disease findings.* Whenever any person receives a laboratory test result for chronic wasting disease, that person shall immediately report that result to the department. The person shall report by telephone, fax or other rapid means within one day after receiving the test result and shall report in writing within ten days. The person shall provide a copy of the test result to the owner of the tested cervid. This reporting requirement applies to any laboratory test result for chronic wasting disease. Telephone and fax reports should be made to the following telephone numbers: (515)281-7127 or fax (515)281-6794. Written reports should be sent to: Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319-0034, Attn: Wildlife Bureau.

571—104.3(481A) Chronic wasting disease in captive cervids—herd monitoring program. A person who keeps captive cervids in this state may enroll the herd in the cervid CWD surveillance identification (CCWDSI) program under this rule. A person shall not move a live captive cervid from a herd in this state unless the herd is enrolled in the CCWDSI program under this rule. To enroll a herd in the CCWDSI program under this rule, a person shall complete and submit a form as provided by the department. No person may enroll a herd in this program prior to October 15, 2002. All animals enrolled in this program must be identified as prescribed in 104.4(481A).

571—104.4(481A) Identification of animals. Beginning May 1, 2003, each captive cervid must be identified with two individual permanent identifications that are unique identifying numbers or marks and that can be a combination of any two of the following: ear tag, tattoo, microchip or other permanent identifier approved by the department in writing. Tags or marks shall be used to identify the herd premises and uniquely identify the individual animal. Licensed hunting preserves are exempt from this requirement except in regard to those cervids purchased or otherwise acquired after October 15, 2002.

571—104.5(481A) Supervision of the CCWDSI program. The department will conduct an annual inventory of Cervidae in a herd enrolled in the CCWDSI program.

571—104.6(481A) Surveillance procedures. For cervid herds enrolled in this mandatory certification program, surveillance procedures shall include the following:

104.6(1) *Slaughter establishments.* All slaughtered Cervidae over six months of age must have brain tissue and other appropriate tissues submitted at slaughter and examined for CWD by an approved laboratory. These tissue samples will be obtained by the department or accredited veterinarian on the premises at the time of slaughter.

104.6(2) *Cervid herds.* All cervid herds must be under continuous surveillance for CWD as defined in the CCWDSI program.

571—104.7(481A) Official cervid CWD tests. The following are recognized as official cervid tests for CWD:

1. Histopathology.
2. Immunohistochemistry.
3. Western blot.
4. Negative stain electron microscopy.
5. Bioassay.
6. Any other tests performed by an approved laboratory to confirm a diagnosis of CWD.

571—104.8(481A) Investigation of CWD affected animals identified through surveillance. Trace back must be performed for all animals diagnosed at an approved laboratory as affected with CWD. All herds of origin and all adjacent herds having contact with affected animals as determined by the CCWDSI program must be investigated epidemiologically. All herds of origin, adjacent herds, and herds having contact with affected animals or exposed animals must be quarantined.

571—104.9(481A) Duration of quarantine. Quarantines placed in accordance with these rules shall be removed as follows:

1. For herds of origin, quarantines shall be removed after five years of compliance with rules 571—104.2(481A) through 571—104.22(481A).
2. For herds having contact with affected or exposed animals, quarantines shall be removed after five years of compliance with rules 571—104.2(481A) through 571—104.22(481A).
3. For adjacent herds, quarantines shall be removed as directed by the department in consultation with a designated epidemiologist.

571—104.10(481A) Herd plan. The herd owner, the owner's veterinarian, if requested, and a designated epidemiologist shall develop a plan for eradicating CWD in each affected herd. The plan must be designed to reduce and then eliminate CWD from the herd, to prevent spread of the disease to other herds, and to prevent reintroduction of CWD after the herd becomes a certified CWD cervid herd. The herd plan must be developed and signed within 60 days after the determination that the herd is affected. The plan must address herd management and adhere to rules 571—104.2(481A) through 571—104.22(481A). The plan must be formalized as a memorandum of agreement between the owner and program officials, must be approved by the department, and must include plans to obtain certified CWD cervid herd status.

571—104.11(481A) Identification and disposal requirements. Affected and exposed animals must remain on the premises where they are found until they are identified and disposed of in accordance with direction from the department.

571—104.12(481A) Cleaning and disinfecting. Premises must be cleaned and disinfected under department supervision within 15 days after affected animals have been removed.

571—104.13(481A) Methods for obtaining certified CWD cervid herd status. Certified CWD cervid herd status must include all Cervidae under common ownership. They cannot be commingled with other cervids that are not certified, and a minimum geographic separation of 30 feet between herds of different status must be maintained in accordance with the USDA Uniform Methods and Rules as defined in APHIS manual 91-45-011, revised as of January 22, 1999. A herd owner may qualify a herd for status as a certified CWD cervid herd by one of the following means:

104.13(1) *Purchasing a certified CWD cervid herd.* Upon request and with proof of purchase, the department shall issue a new certificate in the new owner's name. The anniversary date and herd status for the purchased animals shall be the same as for the herd to which the animals are added; or if part or all of the purchased herd is moved directly to premises that have no other Cervidae, the herd may retain the certified CWD status of the herd of origin. The anniversary date of the new herd is the date of the most recent herd certification status certificate.

104.13(2) *Complying with the CCWDSI program.* Upon request and with proof by records, a herd owner shall be issued a certified CWD cervid herd certificate by complying with the CCWDSI program for a period of five years.

571—104.14(481A) Recertification of CWD cervid herds. A herd is certified for 12 months. Annual inventories conducted by the department are required every 9 to 15 months from the anniversary date. For continuous certification, adherence to the provisions in these rules and all other state laws and rules pertaining to raising cervids is required. A herd's certification status is immediately terminated and a herd investigation shall be initiated if CWD affected or exposed animals are determined to originate from that herd.

571—104.15(481A) Movement into a certified CWD cervid herd.

104.15(1) Animals originating from certified CWD cervid herds may move into another certified CWD cervid herd.

104.15(2) Animals originating from noncertified or nonmonitored herds that are moving into certified CWD cervid herds will change the status of the certified CWD cervid herd to the same level as the animals that are imported into that herd.

104.15(3) Animals originating from CWD monitored herds cannot be certified until the years in the CCWDSI program total five years.

571—104.16(481A) Movement into a monitored CWD cervid herd.

104.16(1) Animals originating from a monitored CWD cervid herd may move into another monitored CWD cervid herd of the same status.

104.16(2) Animals originating from a herd which is not a monitored CWD cervid herd or from a lower status monitored CWD cervid herd will change the status of the monitored CWD cervid herd to the same level as the animals that are imported into that herd until completion of CWD certification.

571—104.17(481A) Recognition of monitored CWD cervid herds. The department shall issue a monitored CWD cervid herd certificate including CWD monitored herd status as CWD monitored Level A during the first calendar year, CWD monitored Level B during the second calendar year, CWD monitored Level C during the third calendar year, CWD monitored Level D during the fourth calendar year, CWD monitored Level E during the fifth calendar year, and CWD certification at the end of the fifth year and thereafter.

571—104.18(481A) Recognition of certified CWD cervid herds. The department shall issue a certified CWD cervid herd certificate when the herd first qualifies for recertification. The department shall issue a renewal form annually.

571—104.19(481A) Intrastate movement requirements.

104.19(1) All intrastate movements of Cervidae other than to a state-inspected or federally inspected slaughter establishment shall be accompanied by an intrastate movement certificate of veterinary inspection signed by a licensed, accredited veterinarian.

104.19(2) Such intrastate movement certificate shall include all of the following:

a. Consignor's name and address.

b. Consignee's name and address.

c. Individual identification of each animal as prescribed in 571—104.4(481A).

d. The following statement: "There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past two years."

571—104.20(481A) Import requirements.

104.20(1) All Cervidae transported into Iowa must be accompanied by all of the following:

a. An official certificate of veterinary inspection.

b. A permit number requested by the licensed, accredited veterinarian signing the certificate and issued by the Iowa department of agriculture and land stewardship prior to movement.

c. One of the following statements must appear on the certificate:

"All Cervidae on this certificate have been part of the herd of origin for at least two years or were natural additions to this herd. There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past five years"; or

"All Cervidae on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least two years or were natural additions. There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past five years."

104.20(2) All cervids transported into Iowa must be in compliance with the uniform methods and rules set forth in U.S. Department of Agriculture, Animal and Plant Health Inspection Service bulletins 91-45-001, "Tuberculosis Eradication in Cervidae," (effective February 3, 1989), 91-45-005 (effective May 15, 1994, including 1996 amendments) and 91-45-12, "Brucellosis in Cervidae," (effective September 30, 1998).

104.20(3) Animal health officials of the state of origin must have access to herd records for the past five years including records of cervid deaths and causes of death.

104.20(4) If the Cervidae listed on the certificate are enrolled in a CWD program, the anniversary date and program status for each individual animal must be listed.

571—104.21(481A) Prohibited movement of cervid carcasses. The importation into Iowa of cervid carcasses from a CWD endemic area is prohibited, except for the meat from which all bones have been removed, the cape (skin), and antlers. Antlers may be attached to a clean skull plate from which all brain tissue has been removed.

571—104.22(481A) Inspection. The department may inspect any shipment of cervids and accompanying certificate of veterinary inspection or shipment documentation. The department may quarantine or destroy any cervids that are found to be infected with CWD or TB.

These rules are intended to implement Iowa Code sections 481A.47, 481A.62 and 484B.12.

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[Filed emergency 5/9/02—published 5/29/02, effective 5/9/02]

[Filed emergency 9/13/02 after Notice 7/10/02—published 10/2/02, effective 9/13/02]

a. *"Political subdivision"* means a geographic area or territorial division of the state which has responsibility for certain governmental functions. Political subdivisions are characterized by public election of officers and taxing powers. The following examples are representative: municipalities, counties, school districts, drainage districts, and utilities.

b. *"Instrumentality of the state or a political subdivision"* means an independent entity that is organized to carry on some specific function of government. Public instrumentalities are created by some form of governmental body, including federal and state statutes and regulations, and are characterized by being under the control of a governmental body. Such control may include final budgetary authorization, general policy development, appointment of a board by a governmental body, and allocation of funds.

c. *"Public agency"* means state agencies and agencies of political subdivisions. Representative examples include an executive board, commission, bureau, division, office, or department of the state or a political subdivision.

d. Effective July 1, 1994, the definition of employer includes an area agency on aging that does not offer an alternative plan to all of its employees that is qualified under the federal Internal Revenue Code.

Some employers included are: the state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities, including their hospitals, park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including waterworks, gasworks, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions. Any employing unit not already reporting to IPERS which fulfills the conditions with respect to becoming an employer shall immediately give notice to IPERS of that fact. Such notice shall set forth the name and address of the employing unit.

21.3(2) Name change. Any employing unit which has a change of name, address, title of the unit, its reporting official or any other identifying information shall immediately give notice in writing to IPERS. The notice shall include the former name, address and IPERS account number of the employing unit, the new name and address of the employing unit and the reason for the change if other than a change of reporting official.

21.3(3) Termination. Any employing unit which terminates for any reason shall provide IPERS with the following:

a. Complete name and address of the dissolved entity;
b. Assigned IPERS account number;
c. Last date on which wages were paid;
d. Date on which the entity dissolved;
e. Reason for the dissolution;
f. Whether or not the entity expects to pay wages in the future; and
g. Name and address of absorbed employing unit if applicable.

21.3(4) Reports of dissolved or absorbed employers. An employing unit that has been dissolved or entirely absorbed by another employing unit is required to file a quarterly or monthly report with IPERS through the last date on which it legally existed. Any wages paid after the legal date of dissolution are reported under the account number assigned to the new or successor employing unit, if any.

21.3(5) IPERS account number. Each reporting unit is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to IPERS.

21.3(6) For patient advocates employed under Iowa code section 229.19, the county or counties for whom services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.

This rule is intended to implement Iowa Code sections 97B.5, 97B.9 to 97B.12, 97B.15 and 97B.41(8)*"a."*

581—21.4(97B) Definition of wages for employment during the calendar quarter—other definitions. Unless the context otherwise requires, terms used in these rules, regulations, interpretations, forms and other official pronouncements issued by IPERS shall have the following meaning:

21.4(1) *"Wages"* means all compensation earned by employees, including vacation pay; sick pay; bonus payments; back pay; dismissal pay; amounts deducted from employee's pay at the employee's discretion for tax-sheltered annuities, dependent care and cafeteria plans; and the cash value of wage equivalents.

a. Vacation pay. The amount paid an employee during a period of vacation.

b. Sick pay. Payments made for sick leave which are a continuation of salary payments.

c. Workers' compensation, unemployment, short-term and long-term disability payments. Wages do not include workers' compensation payments, unemployment payments, or short-term and long-term disability payments made by an insurance company or third-party payer, such as a trust. Wages include payments for sick leave which are a continuation of salary payments if paid from the employer's general assets, regardless of whether the employer labels the payments as sick leave, short-term disability, or long-term disability.

d. Compensatory time. Wages include amounts paid for compensatory time taken in lieu of regular work hours and when paid as a lump sum. However, compensatory time paid in a lump sum shall not exceed 240 hours per employee per year or any lesser number of hours set by the employer. Each employer shall determine whether to use the calendar year or a fiscal year other than the calendar year when setting its compensatory time policy.

e. Banked holiday pay. If an employer codes banked holiday time as holiday or vacation pay, the banked holiday pay will be treated as vacation pay when calculating covered wages. If an employer codes banked holiday pay as compensatory time, it will be combined with other compensatory time and subject to the time limits set forth in paragraph *"d"* above.

f. Special lump sum payments. Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment intended as an early retirement incentive. Wages do not include catastrophic leave paid in a lump sum, recruitment bonuses, tips or honoraria. The foregoing items are excluded whether paid in a lump sum or in a series of installment payments. Enforcement of the exclusion of recruitment bonuses from the definition of covered wages shall commence beginning with payments made on or after July 1, 2002.

g. Other special payment arrangements. Wages do not include amounts paid pursuant to special arrangements between an employer and employee whereby the employer pays increased wages and the employee reimburses the employer or a third-party obligor for all or part of the wage increase. This includes, but is not limited to, the practice of increasing an employee's wages by the employer's share of health care costs and having the employee reimburse the employer or a third-party provider for such health care costs. Wages do not include amounts paid pursuant to a special arrangement between an employer and employee whereby wages in excess of the covered wage ceiling for a particular year are deferred to one or more subsequent years. Wages do not include employer contributions (excluding employee contributions) to a plan, program, or arrangement whereby the amounts contributed are not included in the member's federal taxable income.

Employers and employees that knowingly and willfully enter into the types of arrangements described in this subrule without making the appropriate wage adjustments, thereby causing an impermissible increase in the payments authorized under Iowa Code chapter 97B, may be prosecuted under Iowa Code section 97B.40 for engaging in a fraudulent practice. If IPERS determines that its calculation of a member's monthly benefit includes amounts paid under an arrangement described in this subrule, IPERS shall recalculate the member's monthly benefit, after making the appropriate wage adjustments. IPERS may recover the amount of overpayments caused by the inclusion of the payments described in this subrule from the monthly amounts payable to the member or amounts payable to the member's successor(s) in interest, regardless of whether or not IPERS chooses to prosecute the employers and employees under Iowa Code section 97B.40.

h. Wage equivalents. Items such as food, lodging and travel pay which are includable as employee income, if they are paid as compensation for employment. The basic test is whether or not such wage equivalent was given for the convenience of the employee or employing unit. Wage equivalents are not reportable under IPERS if given for the convenience of the employing unit or are not reasonably quantifiable. Wage equivalents that are not included in the member's federal taxable income shall be deemed to be for the convenience of the employer. A wage equivalent is not reportable if the employer certifies that there was a substantial business reason for providing the wage equivalent, even if the wage equivalent is included in the employee's federal taxable income. Wages paid in any other form than money are measured by the fair market value of the meals, lodging, travel or other wage equivalents.

i. Members of the general assembly. Wages for a member of the general assembly means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary. Wages include per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages do not include expense payments except that, effective July 1, 1990, wages include daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly. Such nontravel expenses of office during a session of the general assembly shall not exceed the maximum established by law for members from Polk County. A member of the general assembly who has elected to participate in IPERS shall receive four quarters of service credit for each calendar year during the member's term of office, even if no wages are reported in one or more quarters during a calendar year.

j. Wages for certain testing purposes. Wages for testing purposes to ensure compliance with Internal Revenue Code Section 415 shall include a member's gross wages, excluding nontaxable fringe benefits and all amounts placed in tax-deferred vehicles including, but not limited to, plans established pursuant to Internal Revenue Code Sections 125, 401(k), 403, and 457, and excluding IPERS contributions paid after December 31, 1994, by employers on behalf of employees. Effective January 1, 1996, the annual wages of a member taken into account for testing purposes under any of the applicable sections of Internal Revenue Code shall not exceed the applicable amount set forth in Internal Revenue Code Section 401(a)(17), and any regulations promulgated pursuant to that section. The foregoing sentence shall not be deemed to permit the maximum amount of wages of a member taken into account for any other purpose under Iowa Code chapter 97B to exceed the maximum covered wage ceiling under Iowa Code section 97B.1A(26). Effective January 1, 1998, wages for testing purposes to ensure compliance with Internal Revenue Code Section 415 shall include elective deferrals placed in tax-deferred plans established pursuant to Internal Revenue Code Sections 125, 401(k), 403, and 457 by employers on behalf of employees.

21.4(2) Wages are reportable in the quarter in which they are actually paid to the employee, except in cases where employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, in which case the employer shall file wage adjustment reporting forms with IPERS allocating said wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

An employer cannot report wages as having been paid to employees as of a quarterly reporting date if the employee has not actually or constructively received the payments in question. For example, wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on June 30 would be reported as second quarter wages, but wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on July 3 would be reported as third quarter wages.

IPERS contributions must be calculated on the gross amount of a back pay settlement before the settlement is reduced for taxes, interim wages, unemployment compensation, and similar mitigation of damages adjustments. IPERS contributions must be calculated by reducing the gross amount of a back pay settlement by any amounts not considered covered wages such as, but not limited to, lump sum payments for medical expenses.

Notwithstanding the foregoing, a back pay settlement that does not require the reinstatement of a terminated employee and payment of the amount of wages that would have been paid during the period of severance (before adjustments) shall be treated by IPERS as a "special lump sum payment" under subrule 21.4(1) above and shall not be covered.

Notwithstanding the foregoing, wages restored following the receipt of contributions forwarded pursuant to 21.6(12) shall be credited to quarterly wages which would have been received but for employer-mandated reduction in hours (EMRH).

21.4(3) One quarter of service will be credited for each quarter in which a member is paid covered wages.

a. "Covered wages" means wages of a member during periods of service that do not exceed the annual covered wage maximum. Effective January 1, 2002, and for each subsequent calendar year, covered wages shall not exceed $200,000 or the amount permitted for that year under Section 401(a)(17) of the Internal Revenue Code.

b. Effective January 1, 1988, covered wages shall include wages paid a member regardless of age. (From July 1, 1978, until January 1, 1988, covered wages did not include wages paid a member on or after the first day of the month in which the member reached the age of 70.)

c. If a member is employed by more than one employer during the calendar year, the total amount of wages paid shall be included in determining the annual covered wage maximum. If the amount of wages paid to a member by several employers during a calendar year exceeds the covered wage limit, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. See subrule 21.8(1), paragraph *"h."*

21.4(4) If certain conditions are met, employer contributions to fringe benefit programs that qualify under IRC Section 125 may be treated as covered wages. The following paragraphs set forth IPERS' regulations for determining covered wage treatment and for making wage adjustments when employer-paid contributions have been covered or excluded in violation of the standards set forth below.

a. Section 125 plans. For purposes of this subrule, a Section 125 plan means an employer-sponsored fringe benefit plan that qualifies under Section 125 of the federal Internal Revenue Code. Some of the common names for this type of plan are cafeteria plan, flexible benefits plan, flex plan, and flexible spending arrangement.

b. Elective employer contributions. For purposes of this subrule, "elective employer contributions" means employer contributions made to a Section 125 plan that can be received in cash or used to purchase benefits under the Section 125 plan. Generally, elective employer contributions that are not subject to special eligibility requirements qualify as covered wages.

c. Mandatory minimum coverage requirements. The term "elective employer contributions" does not include employer contributions that must be used to purchase benefits under a Section 125 plan. For example, if an employer provides $2,500 to its employees to purchase benefits in a Section 125 plan, but requires that all employees must use $1,000 of that amount to purchase single health coverage, the cost of the single coverage is deducted. In this example, $1,000 would be subtracted from the $2,500 provided, resulting in $1,500 of covered wages.

d. Uniformity determined coverage group by coverage group. Iowa Code section 97B.1A(26)*"a"*(1)*"b"* states that elective employer contributions shall be treated as covered wages only if made uniformly available and not limited to highly compensated employees. The application of the uniformity concept may be illustrated as follows: Employer Z has two major groupings of employees covered under its cafeteria plan, teaching staff and support staff. Teaching staff is provided $3,000 to purchase benefits under the Section 125 plan. Every member of the teaching staff must take single coverage costing $1,500. Every member of the support staff is provided $2,500 and must also take the single coverage costing $1,500. Each member of the teaching staff would have $1,500 treated as covered wages, and each member of the support staff would have $1,000 treated as covered wages. This would be considered uniform treatment.

Uniformity is not destroyed by the fact that the amount available to members of a coverage group varies because the actual cost of mandatory minimum coverage varies depending on actuarial factors that apply to each individual. For example, assume Employer Z above also required each employee to have long-term disability coverage. In Employer Z's case, the actual cost of disability coverage will vary from individual to individual. In that case, Employer Z would also deduct the actual cost of the required disability coverage, individual by individual, when determining IPERS covered wages.

Uniformity is not destroyed by reason of the fact that an employer has two groups of employees who, as a result of collective bargaining, have differing entitlements to employer contributions. For example, suppose Employer Y has a contract that provides $3,500 to each employee to purchase benefits under the Section 125 plan. Every employee can take all the cash by waiving participation in the plan, or can use all or part of the employer contributions to the Section 125 plan. In the collective bargaining process, a new contract is adopted which states that the employer will still provide $3,500 to each employee to purchase benefits under the Section 125 plan. However, under the new contract, persons who waived participation before April 15 can still waive participation in the plan and take all the cash, but persons who did not waive participation and those hired after April 15 must have single coverage costing $1,700. Employer Y would be treated as having two groups of employees with different elective employer contribution amounts. The grandfathered group (employees who waived participation before April 15) would have covered wages of $3,500, and the group consisting of those who did not waive participation before April 15 and new employees would have covered wages of $1,800.

e. Highly compensated employee test. Iowa Code chapter 97B provides that in addition to being uniformly available, employer contributions must not discriminate in favor of highly compensated employees (HCEs). For purposes of this subrule, an HCE is an employee who has reported wages and tips subject to Medicare tax in excess of the IRC 414(q) limit then in effect. IPERS shall apply the HCE limitation as follows: If elective employer contributions are made available to HCEs, the total elective employer contributions made available to the HCE group must not exceed 25 percent of the total elective employer contributions made available under the Section 125 plan to all employees, including the HCEs. If the elective employer contributions available to the HCE group exceed the 25 percent limit (or if it is determined that the Section 125 plan discriminates in favor of HCEs under other IRS rules), elective employer contributions for HCEs shall not exceed the highest amount available to a nonexecutive coverage group of employees covered under such plan. The general application of these principles is illustrated below, using the 2002 HCE limit of $90,000.

Employer W has a Section 125 plan that provides elective employer contributions totaling $7,000 to executive staff, $4,500 to teaching staff, and $3,500 to support staff. There are no other limits or exclusions that apply. It will be acceptable to include these amounts as covered wages for each member of each group, provided that the total amount of contributions made available to HCEs does not exceed 25 percent of the total elective employer contributions for all employees covered under the plan. If elective employer contributions for the executive staff totaled $70,000, and total elective employer contributions for the remainder of the staff totaled $500,000, the HCE percentage of total elective employer contributions would be 12 percent ($70,000 divided by $570,000), and all elective employer contributions would be treated as covered wages for all groups. However, if elective employer contributions for the executive staff totaled $70,000, and elective employer contributions for the remainder of the staff totaled $200,000, the HCE percentage would be 26 percent ($70,000 divided by $270,000), and HCEs' elective employer contributions would be limited to $4,500 per HCE for covered wage purposes.

f. Elective employer contributions limited to dual coverage employees. In some cases, a Section 125 plan provides for what appear to be mandatory employer contributions for health plan coverage, but the terms of the Section 125 plan permit dual coverage employees to waive coverage and receive the employer contributions in cash, if the employee can prove coverage under another health care plan. IPERS shall continue to treat the full amount of employer contributions in such cases as not being IPERS covered wages, even though individual employees with the described dual coverage may actually receive the employer contribution in cash.

g. Bounties. In some cases, an employer has a Section 125 plan with employer contributions, and what IPERS refers to as a bounty option. A bounty is an amount that may be elected by all employees, or by a subset of that group, such as employees with coverage under another health care plan, either in lieu of any coverage under the employer's health care plan, or in lieu of family coverage. A bounty is generally set at an amount that is less than the amount that would otherwise be available to purchase benefits under the Section 125 plan. IPERS does not treat bounties as covered wages. The uniformity and nondiscrimination principles described in this subrule do not apply to such benefits.

h. Corrections for overpayments and underpayments of contributions and benefits caused by Section 125 plan covered wage errors. IPERS shall use the following guidelines in requiring corrections for overpayments and underpayments of contributions and benefits caused by the erroneous inclusion or exclusion of employer contributions to a Section 125 plan.

Corrections must be made for all active, terminated and retired members, subject to the following limitations:

(1) If elective employer contributions that should have been covered were not covered, wage adjustments shall be filed, and employers shall be billed for all shortages plus interest. Employers shall be entitled to collect reimbursement for the employee share of contributions as provided in Iowa Code section 97B.9. If retirement benefits, death benefits or refunds have been underpaid as a result of the error, IPERS shall, upon receipt of the contribution shortage, make the appropriate adjustments and pay all back benefits.

(2) If employer contributions that should not have been covered were covered, wage adjustments shall be filed, and the appropriate contribution amounts shall be repaid to employers for distribution to the respective employee and employer contributors. If the reporting error caused an overpayment of retirement benefits, death benefits, or refunds, IPERS shall offset excess contributions received against overpayments and shall request a repayment of the remainder of the overpayment, if any, from the recipient.

Wage adjustments, overpayments, and underpayments shall be determined as of the onset of the error, but shall be limited to three years before the beginning of the current contract year for school employers, or current fiscal year for all other covered employers. The foregoing sentence shall apply to unintentional reporting errors. IPERS may go back to the onset of the error, even if the period exceeds three years, if the error is caused by intentional misconduct or gross neglect. Notwithstanding the foregoing principles, IPERS reserves the right to negotiate adjustments with individual employers in special situations, and no negotiated settlement with an employer shall be deemed to constitute a waiver of this subrule, or a binding precedent for other employers.

This subrule shall be in effect until March 1, 2003, except as amended before then.
This rule is intended to implement Iowa Code section 97B.1A(26).

581—21.5(97B) Identification of employees covered by the IPERS retirement law.

21.5(1) Definition of employee.

a. A person is in employment as defined by Iowa Code chapter 97B if the person and the covered employer enter into a relationship which both recognize to be that of employer/employee. A person is not in employment if the person volunteers services to a covered employer for which the person receives no remuneration. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term control refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official may be an "employee" as defined in the agreement between the state of Iowa and the Secretary of Health and Human Services, without the element of direction and control.

Effective July 1, 1994, a person who is employed in a position which allows IPERS coverage to be elected as specified in Iowa Code section 97B.1A(8) must file a one-time election form with IPERS for coverage. If the person was employed before July 1, 1994, the election must be postmarked on or before July 1, 1995. If the person was employed on or after July 1, 1994, the election must be postmarked within 60 days from the date the person was employed. Coverage will be prospective from the date the election is approved by IPERS. The election, once filed, is irrevocable and membership continues until the member terminates covered employment. The election window does not allow members who had been in coverage to elect out.

Effective July 1, 1994, members employed before that date as a gaming enforcement officer, a fire prevention inspector peace officer, or an employee of the division of capitol police (except clerical workers), may elect coverage under Iowa Code chapter 97A in lieu of IPERS. The election must be directed to the board of trustees established in Iowa Code section 97A.5 and postmarked on or before July 1, 1995. Coverage under IPERS will terminate when the board of trustees approves the election. The election, once received by the board of trustees, is irrevocable. If no election is filed by that date, the member will remain covered by IPERS until termination of covered employment. The election window does not allow a member who previously elected out of IPERS to reverse the decision and become covered under IPERS.

Effective January 1, 1999, new hires who may elect out of IPERS coverage shall be covered on the date of hire and shall have 60 days to elect out of coverage in writing using IPERS' forms. Notwithstanding the foregoing, employees who had the right to elect IPERS coverage prior to January 1, 1999, but did not do so, shall be covered as of January 1, 1999, and shall have until December 31, 1999, to elect out of coverage.

Employment as defined in Iowa Code chapter 97B is not synonymous with IPERS membership. Some classes of employees are excluded under Iowa Code section 97B.1A(8)"*b*" from membership by their nature. The following subparagraphs are designed to clarify the status of certain employee positions.

(1) Effective January 1, 1999, elected officials in positions for which the compensation is on a fee basis, elected officials of school districts, elected officials of townships, and elected officials of other political subdivisions who are in part-time positions are covered by IPERS unless they elect out of coverage. An elected official who becomes covered under this chapter may later terminate membership by informing IPERS in writing of the expiration of the member's term of office, or if a member of the general assembly, of the intention to terminate coverage. An elected official does not terminate covered employment with the end of each term of office if the official has been reelected for the same position. If elected for another position, the official shall be covered unless the official elects out of coverage.

(2) County and municipal court bailiffs who receive compensation for duties are included.

(3) City attorneys are included.

(4) Judicial magistrates are included unless they elect out of IPERS coverage. Having made a choice to remain in IPERS coverage, a judicial magistrate may not revoke that election and discontinue such coverage.

(5) Office and clerical staff of a county medical examiner's office are included, and, effective January 1, 1995, county medical examiners and deputy county medical examiners who are full-time county employees are included.

(6) Effective July 1, 1994, police officers and firefighters of a city not participating in the retirement systems established under Iowa Code chapter 410 or 411 are included. Emergency personnel, such as ambulance drivers, who are deemed to be firefighters by the employer, are to be treated as firefighters. Effective January 1, 1995, part-time police officers are covered in the same manner as full-time police officers. In accordance with Iowa Code section 80D.14, reserve peace officers employed under Iowa Code chapter 80D are excluded from coverage. In accordance with Iowa Code sections 384.6(1) and 411.3, a police chief or fire chief who has submitted a written request to the board of trustees created by section 411.36 to be exempt from chapter 411 is also exempt from coverage under IPERS. The city shall make contributions on behalf of such persons to the international city management association/retirement corporation.

(7) County social welfare employees are included.

(8) Members of county soldiers relief commissions and their administrative or clerical employees are included.

(9) Part-time elected mayors, mayors of townships, and mayors that are paid on a fee basis are covered under IPERS unless they elect out of coverage. All other mayors, including appointed mayors and full-time elected mayors, whether elected by popular vote or by some other means, are covered.

(10) Field assessors are included.

(11) Members of county boards of supervisors who receive an annual salary are included. Effective for terms of office beginning January 1, 1999, and later part-time members of county boards of supervisors who receive an annual salary or are paid on a per diem basis are included unless they elect out of coverage.

(12) Temporary employees of the general assembly who are employed for less than six months in a calendar year or work less than 1,040 hours in a calendar year are included unless the employee elects out of coverage. If coverage is elected, the member may not terminate coverage until termination of covered employment.

(13) Persons hired for temporary employment are excluded from IPERS' coverage providing that they have not established an ongoing relationship with an IPERS-covered employer. Effective January 1, 1993, an ongoing relationship with an IPERS-covered employer is established when the employee is paid covered wages of $300 or more per quarter in two consecutive quarters, or if the employee is employed by a covered employer for 1,040 or more hours in a calendar year. Coverage will begin when the permanency of the relationship is established, and shall continue until the employee's relationship with the covered employer is severed. If there is no formal severance, coverage for a person hired for temporary employment who has established an ongoing relationship with a covered employer will continue until that person completes four consecutive calendar quarters in which no services are performed for that employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to a temporary employee who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the employee is on an approved leave of absence. Contributions shall be paid, and service credit accrued, when wages are paid in the quarter after the ongoing relationship has been established.

(14) Drainage district employees who have vested rights to IPERS through earlier participation or employees of drainage districts are included unless they elect out of coverage.

(42) Volunteer emergency personnel, such as ambulance drivers, are considered temporary employees and will be covered if they meet the requirements of 581 IAC 21.5(1)*"a"*(13). Persons who meet such requirements will be covered under the protection occupation requirements of Iowa Code section 97B.49(16) if they are considered firefighters by their employers; otherwise they are covered under Iowa Code section 97B.11.

(43) Employees of the Iowa department of public safety hired pursuant to Iowa Code chapter 80 as peace officer candidates are excluded from coverage.

(44) Persons employed through any program described in Iowa Code section 15.225, subsection 1, and provided by the Iowa conservation corps shall not be covered.

(45) Appointed and full-time elective members of boards and commissions who receive a set salary shall be covered. Effective January 1, 1999, part-time elective members of boards and commissions not otherwise described in these rules who receive a set salary are included unless they elect out of coverage. Members of boards, other than county boards of supervisors, and commissions, including appointed and elective full-time and part-time members, who receive only per diem and expenses shall not be covered.

(46) Persons receiving rehabilitation services in a community rehabilitation program, rehabilitation center, sheltered workshop, and similar organizations whose primary purpose is to provide vocational rehabilitation services to target populations shall not be covered.

(47) Persons who are members of a community service program authorized under and funded by grants made pursuant to the federal National and Community Service Act of 1990 shall not be covered.

(48) Persons who are employed by professional employment organizations, temporary staffing agencies, and similar noncovered employers and are leased to covered employers shall be excluded. Notwithstanding the foregoing, persons who are employed by a covered employer and leased to a noncovered employer shall be covered.

(49) Effective July 1, 1999, persons performing referee services for covered employers shall be excluded from coverage, unless the performance of such services is included in the persons' regular job duties for the employers for which such services are performed.

(50) Effective July 1, 2000, patient advocates appointed under Iowa Code section 229.19 shall be included.

(51) Persons employed by the Iowa student loan liquidity corporation are excluded.

b. Each employer shall ascertain the federal social security account number of each employee subject to IPERS.

c. Rescinded IAB 7/5/95, effective 8/9/95.

21.5(2) The employer shall report the employee's federal social security account number in making any report required by IPERS with respect to the employee.

21.5(3) to **21.5(6)** Rescinded IAB 7/22/92, effective 7/2/92.

21.5(7) Effective July 1, 1996, an employee may actively participate in IPERS and another retirement system supported by public funds if the person does not receive credit under both IPERS and such other retirement system for any position held.

This rule is intended to implement Iowa Code sections 97B.1A(8), 97B.42, 97B.42A, 97B.42B, 97B.49C, 97B.52A and 97B.73B.

581—21.6(97B) Wage reporting and payment of contributions by employers.

21.6(1) Any public employing unit whose combined employer/employee IPERS contribution tax equals or exceeds $100 per month is required to pay the tax on a monthly basis. All other employing units are required to file wage reports and pay the contribution tax on a quarterly basis. When IPERS becomes aware of the correct payment and reporting status of an employing unit, IPERS will send to the reporting official a supply of the employer remittance advice forms.

21.6(2) Each periodic wage reporting form must include all employees who earned reportable wages or wage equivalents under IPERS. If an employee has no reportable wage in a quarter but is still employed by the employing unit, the employee should be listed with zero wages. Periodic wage reports must be received by IPERS on or before the last day of the month following the close of a calendar quarter in which the wages were paid.

21.6(3) All checks in payment of the total contribution tax shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117.

21.6(4) For employers filing quarterly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the calendar quarter in which the wages were paid and at least five days prior to the periodic wage reports filed for the same period.

For employers filing monthly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the month in which wages were paid and, for the third month of a quarter, at least five days prior to periodic wage reports filed for that quarter.

Any employer filing monthly or quarterly employer remittance advice forms for two or more entities shall attach to each remittance form the checks covering the contributions due on that form. Improperly paid contributions are considered as unpaid.

21.6(5) A request for an extension of time to file a periodic wage report or pay a contribution may be granted by IPERS for good cause if presented before the due date, but no extension shall exceed 15 days beyond the due date. If an employer who has been granted an extension fails to pay the contribution on or before the end of the extension period, interest shall be charged and paid from the original due date as if no extension had been granted. IPERS may adopt reasonable additional rules imposing penalties on employers who fail to timely file periodic wage reports on a regular basis.

To establish good cause for an extension of time to file a periodic wage report or pay, the employer must show that the delinquency was not due to mere negligence, lack of ordinary care or attention, carelessness or inattention. The employer must affirmatively show that it did not file the report or pay timely because of some occurrence beyond the control of the employer.

21.6(6) When an employer has no reportable wages or no wages to report during the applicable reporting period, the periodic wage reporting document should be marked "no reportable wages" or "no wages" and returned to IPERS. When no employer's wage report is made, the employing unit's account is considered delinquent for the reporting period until the report is filed.

21.6(7) Substitute forms may be used if they meet all the IPERS reporting requirements.

21.6(8) Employers reporting wages for 50 or more members in a quarter must submit these wages via magnetic media (tape, floppy diskette or cartridge). Noncompliance will result in an administrative charge of $50 issued as a debit to the employer's account for each quarter of noncompliance.

21.6(9) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

a. All covered members, except those identified in 21.6(9)*"b"* and *"c."*

(1) Member's rate—3.7%.

(2) Employer's rate—5.75%.

b. Sheriffs, deputy sheriffs, and airport firefighters, effective July 1, 2002.

(1) Member's rate—5.37%.

(2) Employer's rate—8.05%.

c. Members employed in a protection occupation, effective July 1, 2002.

(1) Member's rate—6.04%.

(2) Employer's rate—9.07%.

d. Members employed in a "protection occupation" shall include:

(1) Conservation peace officers. Effective July 1, 2002, all conservation peace officers, state and county, as described in Iowa Code sections 350.5 and 456A.13 shall be considered members in a "protection occupation."

(2) Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400, or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See definitions of employee in subrule 21.5(1).)

Effective January 1, 1995, part-time police officers will be included.

(3) Correctional officers as provided for in Iowa Code section 97B.49B.

Employees who, prior to December 22, 1989, were in a "correctional officer" position but whose position is found to no longer meet this definition on or after that date, shall retain coverage, but only for as long as the employee is in that position or another "correctional officer" position that meets this definition. Movement to a position that does not meet this definition shall cancel "protection occupation" coverage.

(4) Airport firefighters employed by the military division of the department of public defense. Effective July 1, 1994, airport firefighters employed by the military division of the department of public defense shall pay the same contribution rate, and receive benefits under the same formula, as sheriffs and deputy sheriffs. Service under this subrule includes all membership service in IPERS as an airport firefighter.

(5) Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city of 100,000 population or more, and employees covered by the Iowa Code chapter 19A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

(6) Except as otherwise indicated in the implementing legislation or these rules, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall be coded by IPERS staff as special service if certified by the employer as constituting special service under current law. No additional contributions shall be required for regular service reclassified as special service under this subrule.

(7) Effective July 1, 1990, an employee of the state department of transportation who is designated as a "peace officer" by resolution under Iowa Code section 321.477.

(8) Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

(9) Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district of the department of correctional services.

(10) Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district of the department of correctional services.

e. Prior special rates are as follows:

Effective July 1, 2001, through June 30, 2002:

(1) Sheriffs, deputy sheriffs, and airport firefighters—member's rate—5.50%; employer's rate—8.25%.

(2) Protection occupation—member's rate—6.20%; employer's rate—9.29%.

f. Pretax.

(1) Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

(2) Salaries reportable for purposes other than federal income tax will not be reduced, including IPERS, FICA, and, through December 31, 1998, state income tax purposes.

(3) Effective January 1, 1999, employers must pay member contributions on a pretax basis as provided in subparagraph (1) above for both federal and state income tax purposes.

21.6(10) Effective July 1, 1992, credit memos that have been issued due to an employer's overpayment are void one year after issuance.

21.6(11) Effective September 1, 2002, covered employers shall be required to enroll new employees prior to reporting wages for the new employees. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, gender, and mailing address, and employer identification number. Employers may submit enrollment information for new employees on paper, but are encouraged to switch to magnetic media or Internet enrollment when available. A wage report filed by an employer through the Internet when IPERS makes the option available shall be rejected if the report contains new employees who have not yet been enrolled in the IPERS system.

21.6(12) Additional employer contributions from employer-mandated reduction in hours. This subrule applies only to the restoration of covered wages caused by an employer-mandated reduction in hours (EMRH). It does not apply to reductions in base wages, or to permanent layoffs or other termination of employment situations.

a. A member may restore the member's three-year average covered wage to the amount that it would have been but for an EMRH by completing the IPERS application for additional employer contributions and payroll deduction authorization.

b. A member cannot pay the additional employer contributions described under this subrule in any manner except through payroll deductions.

c. The payroll deductions authorization described under this subrule shall be irrevocable, except upon death, retirement or termination of employment. If revoked by the member's death, retirement, or termination of employment, all amounts held by an employer in the member's name shall be forwarded to the member along with the member's final wages.

d. A member may obtain a refund of amounts contributed under this subrule as part of a refund of the member's entire account balance, but a member who chooses a retirement allowance shall not receive a refund of any amounts contributed, even if the covered wages being restored are not used in the member's three-year average covered wage.

e. A member may have the payroll deductions authorized in this subrule made in more than one installment, but if the amount to be contributed to IPERS is less than $100, the full amount must be deducted from one payroll payment, if the member has at least $100 of wages available after other deductions required by law.

f. A covered employer must cooperate with an eligible employee's request for payroll deductions using the applicable IPERS forms. Employers collecting the additional retirement contributions authorized in this subrule shall be required to complete a certificate showing the covered wages actually paid to the member in the affected quarters, and the covered wages that would have been reported but for the EMRH.

g. Employers shall collect and hold amounts to be contributed in this subrule until the full amount can be forwarded to IPERS in one installment.

h. In completing the federal wage reporting forms to be filed with the federal and state tax authorities, an employer shall treat amounts collected and forwarded the same as pre-tax IPERS employee contributions.

i. Upon receipt, IPERS shall credit the amounts collected and forwarded in this subrule to the member's account as pre-tax employee contributions. Adjustments to the employee's wage records shall be made as indicated in the employer's certification of covered wages that would have been reported but for the EMRH.

j. The collection of contributions under this program shall terminate as of midnight, December 31, 2003. Amounts collected must be forwarded by a covered employer no later than the March 31, 2004, contribution filing deadline.

This rule is intended to implement Iowa Code sections 97B.49A to 97B.49I.

e. If a member is last employed in a sheriff, deputy sheriff, or airport firefighter position, all quarters of "eligible service," as defined in Iowa Code section 97B.49C(1)"*d,*" shall be counted as quarters of sheriff/deputy sheriff/airport firefighter service credit.

f. A special limitation applies to hybrid refunds where the member and employer contributed at regular rates for quarters that are eligible for coverage under Iowa Code section 97B.49B or Iowa Code section 97B.49C. If a member has regular service credit and special service credit, and any part of the special service credit consists of quarters for which only regular contributions were made, such quarters will be counted as regular service quarters. However, the foregoing limitation will not apply if the member only has service credit eligible for coverage under Iowa Code section 97B.49B, or only has service credit eligible for coverage under Iowa Code section 97B.49C.

g. Except as described above, this subrule shall not be construed to require or permit service eligible for coverage under Iowa Code section 97B.49B to be treated as special service under Iowa Code section 97B.49C, or vice versa, when determining the percentage payable under this subrule.

21.8(3) *Refund of retired reemployed member's contributions.*

a. Less than six months. A retired member who returns to permanent covered employment, but who resigns within six months of the date the reemployment began, is eligible to have the member contributions for this period refunded. The contributions made by the employer will be refunded to the employer.

b. Six months or longer. A retired member who returns to permanent employment and subsequently terminates the member's employment may elect to receive an increased monthly allowance, or a refund of the member's accumulated contributions and, effective July 1, 1998, employer's accumulated contributions accrued during the period of reemployment. A reemployed member who elects a refund under this subrule in lieu of an increased monthly allowance shall forfeit all other rights to benefits under the system with respect to the period of reemployment. If IPERS determines that the reemployment will not increase the amount of a member's monthly benefit, a member shall only elect the refund.

21.8(4) *General administrative provisions.* In addition to the foregoing, IPERS shall administer a member's request for a refund as follows:

a. To obtain a refund, a member must file a refund application form, which is available from IPERS. Effective December 31, 2002, refund application forms shall only be available from IPERS.

b. The last date the member is considered an employee and the date of the last paycheck from which IPERS will be deducted must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year. The applicant's signature must be notarized. Terminated employees must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered.

c. Unless otherwise specified by the member, the refund warrant will be mailed to the member at the address listed on the application for refund. If a member so desires, the warrant may be delivered to the member or the member's agent at IPERS' principal office. The member must show verification of identification by presenting a picture identification containing both name and social security number. If a member designates in writing an agent to pick up the refund warrant, the agent must present to IPERS both the written designation and the described picture identification.

d. No payment of any kind shall be made under this rule if the amount due is less than $1.

e. An employee must sever all covered employment for 30 days after the date of the last paycheck containing IPERS covered wages. The employee, upon returning to covered employment, shall not file a new application, even if more than 30 days have elapsed since the date of the last paycheck containing IPERS covered wages. If the employee returns to covered employment before 30 days have passed, the refund will be revoked and the amounts paid plus interest must be repaid to the system.

21.8(5) *Emergency refunds.*

a. IPERS may issue an emergency refund to a member who has terminated covered employment and meets the refund eligibility requirements of Iowa Code section 97B.53, if:

(1) The member files an application for refund on a form provided by IPERS;

(2) The member alleges in writing that the member is encountering a financial hardship or unforeseeable emergency; and

(3) The member provides IPERS with payment instructions either in person or in writing.

b. Financial hardship or unforeseeable emergency includes:

(1) Severe financial hardship to a member resulting from a sudden and unexpected illness or accident of the member or a member's dependent;

(2) Loss of a member's property due to casualty; or

(3) Other similar extraordinary and unforeseeable circumstances which arise as a result of events beyond a member's control.

21.8(6) *Erroneously reported wages for employees not covered under IPERS.* Employers who erroneously report wages for employees that are not covered under IPERS may secure a warrant or credit, as elected by the employer, for the employer's contributions by filing an IPERS periodic wage reporting adjustments form available from IPERS. An employer that files a periodic wage reporting adjustments form requesting a warrant or credit shall receive a warrant or credit for both the employer and employee contributions made in error. The employer is responsible for returning the employee's share and for filing corrected federal and state wage reporting forms. Warrants will not be issued by IPERS if the amount due is less than $1. In such cases, the credit will be transferred to the employer's credit memo. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on IPERS refund application form will not be permitted to file a periodic wage reporting adjustments form for that employee for the same period of time.

21.8(7) *Contributions paid on wages in excess of the annual covered wage maximum.* Effective for wages paid in calendar years beginning on or after January 1, 1995, IPERS shall automatically issue to each affected employer a warrant or credit, as elected by the employer, of both employer and employee contributions paid on wages in excess of the annual covered wage maximum for a calendar year. A report will be forwarded to each such employer detailing each employee for whom wages were reported in excess of the covered wage ceiling. Warrants or credits for the excess contributions made will be issued to the employers upon IPERS' receipt of certification from said employers that the overpayment report is accurate. Warrants will not be issued if the amount due is less than $1. In such cases, the credit will be transferred to the employer's credit memo. The employer is responsible for returning the employee's share of excess contributions. Where employees have simultaneous employment with two or more employers and as a result contributions are made on wages in excess of the annual covered wage maximum, warrants or credits for the excess employer and employee contributions shall be issued to each employer in proportion to the amount of contributions paid by the employer.

21.8(8) *Termination within less than six months of the date of employment.* If an employee hired for permanent employment resigns within six months of the date of employment, the employer may file IPERS' form for reporting adjustments to receive a warrant or the credit, as elected by the employer, for both the employer's and employee's portion of the contributions. It is the responsibility of the employer to return the employee's share. "Termination within less than six months of the date of employment" means employment is terminated prior to the day before the employee's six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

21.8(9) *Reinstatement following an employment dispute.* If an involuntarily terminated employee is reinstated in covered employment as a remedy for an employment dispute, the member may restore membership service credit for the period covered by the refund by repaying the amount of the refund plus interest within 90 days after the date of the order or agreement requiring reinstatement. A reinstatement following an employment dispute shall not constitute a violation of Iowa Code section 97B.53(4), even if the reinstatement occurs less than 30 days after the last wages for employment are paid. Accordingly, the restoration described above or, if later, a buy-back, shall be permitted but is not required. However, if the employee is retroactively reinstated and the previously reported termination is expunged, the reemployment shall be treated as falling within the scope of Iowa Code section 97B.53(4) and a previously paid refund shall be repaid with interest.

21.8(10) *Commencement of disability benefits under Iowa Code section 97B.50(2).*

a. If a vested member terminates covered employment, takes a refund, and is subsequently approved for disability under the federal Social Security Act or the federal Railroad Retirement Act, the member may reinstate membership service credit for the period covered by the refund by paying the actuarial cost as determined by IPERS' actuary. Repayments must be made by:

(1) For members whose federal social security or railroad retirement disability payments began before July 1, 2000, the repayment must be made within 90 days after July 1, 2000;

(2) For members whose social security or railroad retirement disability payments begin on or after July 1, 2000, the repayment must be made within 90 days after the date federal social security or railroad retirement payments begin; or

(3) For any member who could have reinstated a refund under (1) or (2) above but for the fact that IPERS has not yet received a favorable determination letter from the federal Internal Revenue Service, the repayment must in any event be received within 90 days after IPERS has received such a ruling.

b. IPERS must receive a favorable determination letter from the federal Internal Revenue Service before any refund can be reinstated under this subrule.

This rule is intended to implement Iowa Code sections 97B.10, 97B.46, 97B.50 and 97B.53.

581—21.9(97B) Appeals.

21.9(1) *Procedures.*

a. A party who wishes to appeal a decision by IPERS, other than a special service classification or a disability claim under Iowa Code section 97B.50A, shall, within 30 days after notification was mailed to the party's last-known address, file with IPERS a notice of appeal in writing setting forth:

(1) The name, address, and social security number of the applicant;

(2) A reference to the decision from which the appeal is being made;

(3) The fact that an appeal from the decision is being made; and

(4) The grounds upon which the appeal is based.

Upon receipt of the appeal, IPERS shall conduct an internal review of the facts and circumstances involved, in accordance with its appeal review procedure. IPERS shall issue a final agency decision which becomes final unless within 30 days of issuance the member files a notice of further appeal. Upon receipt of notification of further appeal, IPERS shall inform the department of inspections and appeals of the filing of the appeal and of relevant information pertaining to the case in question. In determining the date that an appeal or any other document is filed with IPERS or the department of inspections and appeals, the following shall apply: An appeal or any other document delivered by mail shall be deemed to be filed on the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed on the date of receipt. The department of inspections and appeals shall hold a hearing on the case and shall affirm, modify, or reverse the decision by IPERS.

b. Members shall file appeals of their special service classifications with their respective employers, using the appeal procedures of such employers. The appeal procedures for department of corrections employees shall be specified in rules adopted by the personnel division of the Iowa department of personnel. IPERS shall have no jurisdiction over special service classification appeals.

c. Appeals of disability claims under Iowa Code section 97B.50A shall be filed and processed as provided under rule 581—21.31(97B).

21.9(2) *The determination of appeals.* Following the conclusion of a hearing of an appeal, the administrative law judge within the department of inspections and appeals shall announce the findings of fact. The decision shall be in writing, signed by the administrative law judge, and filed with IPERS, with a copy mailed to the appellant. Such decision shall be deemed final unless, within 30 days after the issuance date of such decision, further appeal is initiated. The issuance date is the date that the decision is signed by the administrative law judge.

21.9(3) *Appeal board.* A party appealing from a decision of an administrative law judge shall file a notice with the employment appeal board of the Iowa department of inspections and appeals, petitioning the appeal board for review of the administrative law judge's decision. In determining the date that a notice of appeal or any other document is filed with the employment appeal board, and subject to applicable exceptions adopted by the employment appeal board in IAC [486], the following shall apply: an appeal or any other document delivered by mail shall be deemed to be filed as of the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed as of the date that it is received.

21.9(4) *Judicial review.* The appeal board's decision shall be final and without further review 30 days after the decision is mailed to all interested parties of record unless within 20 days a petition for rehearing is filed with the appeal board or within 30 days a petition for judicial review is filed in the appropriate district court. The department, in its discretion, may also petition the district court for judicial review of questions of law involving any of its decisions. Action brought by the department for judicial review of its decisions shall be brought in the district court of Polk County, Iowa.

21.9(5) *Contested case procedure.* Appeals of decisions by IPERS that are heard by the department of inspections and appeals shall be conducted pursuant to the rules governing contested case hearings adopted by the department of inspections and appeals under 481—Chapter 10.

This rule is intended to implement Iowa Code sections 97B.16, 97B.20, 97B.20A, 97B.20B, 97B.27, 97B.29 and 97B.50A.

581—21.10(97B) Beneficiaries.

21.10(1) Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits is accepted by IPERS in lieu of a completed designation form. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 retiree may name someone other than the member's contingent annuitant as beneficiary, but only for death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member. If a reemployed IPERS Option 4 retiree dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the death benefits awarded in a qualified domestic relations order (QDRO) shall be paid to the contingent annuitant as alternate payee, and the remainder of the death benefits shall be paid to the member's estate, or the member's heirs if no estate is probated.

21.10(2) Change of beneficiary. The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

581—21.18(97B) Retirement dates.

21.18(1) Effective through December 31, 1992, the first month of entitlement of a member who qualifies for retirement benefits is the first month following the member's last day of service or last day of leave, with or without pay, whichever is later.

21.18(2) Effective January 1, 1993, the first month of entitlement of an employee who qualifies for retirement benefits shall be the first month after the employee is paid the last paycheck, if paid more than one calendar month after termination. If the final paycheck is paid within the month after termination, the first month of entitlement shall be the month following termination. Notwithstanding the foregoing sentence, effective January 1, 2001, employees of a school corporation permitted by the terms of their employment contracts to receive their annual salaries in monthly installments over periods ranging from 9 to 12 months may retire at the end of a school year and receive trailing wages through the end of the contract year if they have completely fulfilled their contract obligations at the time of retirement. For purposes of this subrule, "trailing wages" means previously earned wage payments made to such employees of a school corporation after the first month of entitlement. Such trailing wage payments shall not result in more than one quarter of service credit being added to retiring members' earnings records. For purposes of this subrule, "school corporation" means body politic described in Iowa Code sections 260C.16 (community colleges), 273.2 (area education agencies) and 273.1 (K-12 public schools). This exception does not apply to hourly employees, including those who make arrangements with their employers to hold back hourly wages for payment at a later date, to employees who are placed on sick or disability leave or leave of absence, or to employees who receive lump sum leave, vacation leave, early retirement incentive pay or any other lump sum payments in installments.

21.18(3) To be eligible for a monthly retirement benefit, the member must survive into the designated first month of entitlement. If the member dies prior to the first month of entitlement, the member's application for monthly benefits is canceled and the distribution of the member's account is made pursuant to Iowa Code section 97B.52. Cancellation of the application shall not invalidate a beneficiary designation. If the application is dated later in time than any other designations, IPERS will accept the designation in a canceled application as binding until a subsequent designation is filed.

21.18(4) The first month of entitlement of a member qualifying under the rule of 88 (see subrule 21.11(3)) shall be the first of the month when the member's age as of the last birthday and years of service equal 88. The fact that a member's birthday allowing a member to qualify for the rule of 88 is the same month as the first month of entitlement does not affect the retirement date.

21.18(5) Notwithstanding anything to the contrary, members shall commence receiving a distribution on or before the minimum distribution required beginning date set forth in the Internal Revenue Code. In general, members must begin distributions on or before April 1 of the calendar year after the calendar year in which they attain age of 70½, or actually terminate employment (if later).

21.18(6) For purposes of determining benefits, the life expectancy of a member, a member's spouse, or a member's beneficiary shall not be recalculated after benefits commence.

This rule is intended to implement Iowa Code sections 97B.45, 97B.47 and 97B.48(1) and (2).

581—21.19(97B) Wage-earning disqualifications for retired members.

21.19(1) Effective July 1, 1998, the monthly benefit payments for a member under the age of 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the annual limit. Effective July 1, 2002, the amount of remuneration permitted for a calendar year for a person under the age of 65 before a reduction in federal Social Security retirement benefits is required, or $30,000, whichever is greater. The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings, and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule 21.19(2) below.

Effective January 1, 1991, this earnings limitation does not apply to covered employment in an elective office. A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

21.19(2) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 21.19(1) shall be reduced as follows:

a. A member's monthly retirement allowance in the next following calendar year shall be reduced by the excess amounts earned in the preceding year divided by the number of months remaining in the following calendar year after the excess amount has been determined. A member may elect to make repayment of the overpayments received in lieu of having the member's monthly benefit reduced. Elections to make installment payments must be accompanied by a repayment agreement signed by the member and IPERS. If the monthly amount to be deducted exceeds a member's monthly retirement allowance, the member's monthly allowance shall be withheld in its entirety until the overpayment is recovered. If a member dies and the full amount of overpayments determined under this subrule has not been repaid, the remaining amounts shall be deducted from the payments to be made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which there are no remaining amounts to be paid, or the remaining amounts are insufficient, the unrecovered amounts shall be a charge on the member's estate.

b. Employers shall be required to complete IPERS wage reporting forms for reemployed individuals which shall reflect the prior year's wage payments on a month-to-month basis. These reports shall be used by IPERS to determine the amount which must be recovered to offset overpayments in the prior calendar year due to reemployment wages.

c. A member may elect in writing to have the member's monthly retirement allowance suspended in the month in which the member's remuneration exceeds the amount of remuneration permitted under this rule in lieu of receiving a reduced retirement allowance under paragraph *"a"* of this subrule. If the member's retirement allowance is not suspended timely, the overpayment will be recovered pursuant to paragraph *"a"* of this subrule. The member's retirement allowance shall remain suspended until the earlier of January of the following calendar year or the member's termination of covered employment. The member's election shall remain binding until revoked in writing.

21.19(3) A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased if possible by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retiree. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30 divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS. Any contributions that cannot be used in the recomputation of benefits shall be refunded to the employee and the employer.

Effective July 1, 1998, a member who is reemployed in covered employment after retirement may, after again terminating employment, elect to receive a refund of the employee and employer contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related service credit shall be forfeited.

21.19(4) In recomputing a retired member's monthly benefit, IPERS shall use the following assumptions.

a. The member cannot change option or beneficiary with respect to reemployment period.

b. If the reemployment period is less than four years, the money purchase formula shall be used to compute the benefit amount.

c. If the reemployment period is four or more years, the benefit formula in effect as of the first month of entitlement (FME) for the reemployment period shall be used. If the FME is July 1998 or later, and the member has more than 30 years of service, including both original and reemployment service, the percentage multiplier for the reemployment period only will be at the applicable percentage (up to 65 percent) for the total years of service.

d. If a period of reemployment would increase the monthly benefit a member is entitled to receive, the member may elect between the increase and a refund of the employee and employer contributions without regard to reemployment FME.

e. If a member previously elected IPERS Option 1, is eligible for an increase in the Option 1 monthly benefits, and elects to receive the increase in the member's monthly benefits, the member's Option 1 death benefit shall also be increased if the investment is at least $1,000. The amount of the increase shall be at least the same percentage of the maximum death benefit permitted with respect to the reemployment as the percentage of the maximum death benefit elected at the member's original retirement. In determining the increase in Option 1 death benefits, IPERS shall round up to the nearest $1,000. For example, if a member's investment for a period of reemployment is $1,900 and the member elected at the member's original retirement to receive 50 percent of the Option 1 maximum death benefit, the death benefit attributable to the reemployment shall be $1,000 (50 percent times $1,900, rounded up to the nearest $1,000). Notwithstanding the foregoing, if the member's investment for the period of reemployment is less than $1,000, the benefit formula for a member who originally elected new IPERS Option 1 shall be calculated under IPERS Option 3.

f. A retired reemployed member whose reemployment FME precedes July 1998 shall not be eligible to receive the employer contributions made available to retired reemployed members under Iowa Code section 97B.48A(4) effective July 1, 1998.

g. A retired reemployed member who requests a return of the employee and employer contributions made during a period of reemployment cannot repay the distribution and have the service credit for the period of reemployment restored.

This rule is intended to implement Iowa Code sections 97B.1A, 97B.45 and 97B.48A.

581—21.20(97B) Identification of agents.

21.20(1) Recognition of agents. When a claimant before IPERS desires to be represented by an agent in the presentation of a case, the claimant shall designate in writing the name of a representative and the nature of the business the representative is authorized to transact. Such designation on the part of the claimant shall constitute for IPERS sufficient proof of the acceptability of the individual to serve as the claimant's agent. An attorney in good standing may be so designated by the claimant.

21.20(2) Payment to incompetents. When it appears that the interest of a claimant or retiree would be served, IPERS may recognize an agent to represent the individual in the transaction of the affairs with IPERS. Recognition may be obtained through the filing with IPERS of a copy of the guardianship, trusteeship, power of attorney, conservatorship or Social Security representative payee documents by the individual so designated. Such persons have all the rights and obligations of the member. Notwithstanding the foregoing, none of the foregoing representatives shall have the right to name the representative as the member's beneficiary unless approved to do so by a court having jurisdiction of the matter, or unless expressly authorized to do so in a power of attorney executed by the member.

21.20(3) An individual serving in the capacity of an agent establishes an agreement with IPERS to transact all business with IPERS in such a manner that the interests of the retiree or claimant are best served. Payments made to the agent on behalf of the individual will be used for the direct benefit of the retiree or claimant. Failure to adhere to the agreement will cause discontinuance of the agency relationship and may serve as the basis for legal action by IPERS or the member.

This rule is intended to implement Iowa Code sections 97B.34 and 97B.37.

581—21.21(97B) Actuarial equivalent (AE) payments.

21.21(1) If a member aged 55 or older requests an estimate of benefits which results in any one of the options having a monthly benefit amount of less than $50, the member may elect, under Iowa Code section 97B.48(1), to receive a lump sum actuarial equivalent (AE) payment in lieu of a monthly benefit. Once the AE payment has been paid to the member, the member shall not be entitled to any further benefits based on the contributions included in the AE payment and the employment period represented thereby. Should the member later return to covered employment, any future benefits the member accrues will be based solely on the new employment period. If an estimate of benefits based on the new employment period again results in any one of the options having a monthly benefit amount of less than $50, the member may again elect to receive an AE payment.

21.21(2) If a member, upon attaining the age of 70 or later, requests a retirement allowance without terminating employment and any one of the options results in a monthly benefit amount of less than $50, the member may elect to receive an AE payment based on the member's employment up to, but not including, the quarter in which the application is filed. When the member subsequently terminates covered employment, any benefits due to the member will be based only on the period of employment not used in computing the AE paid when the member first applied for a retirement allowance. If an estimate of benefits based on the later period of employment again results in any of the options having a monthly benefit amount of less than $50, the member may again elect to receive another AE payment. A member who elects to receive an AE payment without terminating employment may not elect to receive additional AE payments unless the member terminates all covered employment and completes a bona fide retirement as provided in these rules.

21.21(3) An AE payment shall be equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.48(1).

581—21.22(97B) Disability for persons not retiring under Iowa Code section 97B.50A.

21.22(1) The following standards apply to the establishment of a disability under the provisions of IPERS:

a. The member must inform IPERS at retirement that the retirement is due to an illness, injury or similar condition. The member must also initiate an application for federal Social Security disability benefits or federal Railroad Retirement Act disability benefits.

b. To qualify for the IPERS disability provision, the member must be awarded federal Social Security benefits due to the disability which existed at the time of retirement.

c. Effective July 1, 1990, the member may also qualify for the IPERS disability provision by being awarded, and commencing to receive, disability benefits through the federal Railroad Retirement Act, 45 U.S.C. Section 231 et seq., due to a disability which existed at the time of retirement.

21.22(2) If a member returns to covered employment after achieving a bona fide retirement, the benefits being provided to the member under Iowa Code section 97B.50(2)*"a"* or *"b"* shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member is aged 55 or older upon reemployment, the member shall continue to receive monthly benefits adjusted as follows. Monthly benefits shall be calculated under the same benefit option that was first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retirees.

581—21.27(97B) Rollovers. If a member who is paid a lump sum distribution, or a beneficiary who is the member's spouse and is paid a lump sum death benefit which qualifies to be rolled over, requests that the taxable portion be rolled over to more than one IRA or other qualified plan, IPERS may assess a $5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax.

This rule is intended to implement Iowa Code sections 97B.38, 97B.48, 97B.48A, 97B.52, 97B.53, and 97B.53B.

581—21.28(97B) Offsets against amounts payable. IPERS may, with or without consent and upon reasonable proof thereof, offset amounts currently payable to a member or the member's designated beneficiaries, heirs, assigns or other successors in interest by the amount of IPERS benefits paid in error to or on behalf of such member or the member's designated beneficiaries, heirs, assigns or other successors in interest.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.25.

581—21.29(97B) Qualified domestic relations orders. This rule shall apply only to marital property orders. All support orders shall continue to be administered under rule 581—21.26(97B).

21.29(1) *Definitions.*

"Alternate payee" means a spouse or former spouse of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by IPERS with respect to such member. "Alternate payee" also refers to persons who are entitled pursuant to a qualified domestic relations order to receive benefits after the death of the original alternate payee.

"Benefits" means, for purposes of this rule and depending on the context, a refund, monthly allowance (including monthly allowance paid as an actuarial equivalent (AE)), or death benefit payable with respect to a member covered under IPERS. "Benefits" does not include dividends payable under Iowa Code section 97B.49 or other cost-of-living increases unless specifically provided for in a qualified domestic relations order.

"Domestic relations order" means any judgment, decree, or order which relates to the provision of marital property rights to a spouse or former spouse of a member and is made pursuant to the domestic relations laws of a state.

"Member" means, for purposes of this rule, IPERS members, beneficiaries, and contingent annuitants.

"Qualified domestic relations order" means a domestic relations order which assigns to an alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

"Trigger event" means a distribution or series of distributions of benefits made with respect to a member.

21.33(12) *Officers and election.*

a. Officers. The officers of the BAC are the chairperson and vice chairperson and shall be elected by a vote of the full membership of the BAC.

b. Elections. Election of officers shall take place at the first BAC meeting held on or after July 1, 2002. If an officer does not serve out the elected term, a special election shall be held at the first meeting after notice is provided to the BAC to elect a representative to serve out the remainder of the term.

21.33(13) *Expenses.* Expenses of BAC representatives shall be reimbursed in accordance with 2001 Iowa Acts, chapter 68, section 13.

This rule is intended to implement Iowa Code chapter 97B and 2001 Iowa Acts, chapter 68, sections 13, 20, and 24.

581—21.34(97B) Replacement warrants. Effective July 1, 2002, for a member or beneficiary who, due to the member's or beneficiary's own actions or inactions, has benefits warrants replaced twice in a six-month period, except when the need for a replacement warrant is caused by IPERS' failure to mail to the address specified by the recipient, payment shall be suspended until such time as the recipient establishes a direct deposit account in a bank, credit union or similar financial institution and provides IPERS with the information necessary to make electronic transfer of said monthly payments. Persons subject to said cases may be required to provide a face-to-face interview and additional documentation to prove that such a suspension would result in an undue hardship.

This rule is intended to implement Iowa Code chapter 97B.

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CHAPTER 4
BIRTH DEFECTS INSTITUTE
[Prior to 7/29/87, Health Department[470]]

641—4.1(136A) Program explanation. The birth defects institute within the department of public health consists of the Iowa neonatal metabolic screening program, the expanded maternal serum alpha-fetoprotein screening program, the regional genetic consultation service, the neuromuscular and related genetic disease program and the Iowa birth defects registry. The birth defects advisory committee represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic health care services by all residents. The committee advises the director of the department of public health regarding issues related to genetics and hereditary and congenital disorders and makes recommendations about the design and implementation of the institute's programs. Committee membership is made up of representatives of professional groups, agencies, legislators, consumers and individuals with an interest in promoting genetic services for the residents of Iowa.

641—4.2(136A) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Central laboratory" means the University Hygienic Laboratory.

"Central registry" means the Iowa birth defects registry.

"Committee" means the birth defects advisory committee.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Institute" means the birth defects institute within the Iowa department of public health.

641—4.3(136A) Iowa neonatal metabolic screening program. This program provides comprehensive newborn screening services for hereditary and congenital disorders for the state.

4.3(1) *Newborn screening policy.* It shall be the policy of the state of Iowa that all newborns shall be screened for hypothyroidism, phenylketonuria, galactosemia, hemoglobinopathies, congenital adrenal hyperplasia, medium chain acyl Co-A dehydrogenase deficiency, and biotinidase deficiency.

As new disorders are recognized and new technologies and tests become available, the institute shall follow protocols developed by the department in regard to the addition of disorders to or deletion of disorders from the screening panel. The state board of health shall provide final approval for the addition of new disorders to the screening panel.

4.3(2) *Health care provider responsibility.* The licensed attending health care provider shall ensure that infants under the provider's care are screened. A parent or guardian shall be informed of the type of specimen, how it is obtained, the nature of the disorders being screened, and the consequences of treatment and nontreatment. Should a parent or guardian refuse the screening, said refusal shall be documented in writing on the Iowa neonatal metabolic screening program waiver. The parent or guardian and licensed attending health care provider shall sign the waiver. The parent or guardian and the Iowa neonatal metabolic screening program shall be provided with a copy of the waiver. The original copy of the waiver shall become a part of the infant's medical record.

4.3(3) *County registrar responsibility.* When a parent or guardian visits a county registrar's office to register a birth that was not attended by a licensed health care provider, the county registrar shall inform the parent or guardian of the need for a blood test to screen for hereditary and congenital disorders.

4.3(4) *Neonatal metabolic screening procedure.*

a. Collection of specimens. A filter paper blood specimen shall be collected from the infant at least 24 hours after the infant's birth, but not later than five days after the infant's birth.

EXCEPTIONS:

(1) A blood specimen must be collected before any transfusion, even if the infant is less than 24 hours old.

(2) All infants shall be screened prior to discharge even if the infant is less than 24 hours old.

(3) An infant transferred to another medical facility must be screened by the receiving facility unless the infant has already been screened. The transferring facility is responsible for notifying the receiving facility of the status of metabolic screening.

(4) An exception to this time sequence shall be accepted for infants of parents or guardians informed by a county registrar of the need for metabolic screening.

b. Submission of specimens. All specimens shall be forwarded by first-class mail or other appropriate means within 24 hours after collection to the University Hygienic Laboratory, the institute's designated central laboratory.

c. Processing of specimens. The central laboratory shall process specimens within 24 hours of receipt. The central laboratory shall notify the submitting health care provider, birthing facility or drawing laboratory of an unacceptable specimen and the need for another specimen.

d. Reporting of presumptive positive test results. A presumptive positive test result shall be reported within 24 hours to the consulting physician, or the physician's designee, who shall then notify the attending health care provider. This initial report shall be followed by a written report to the attending health care provider and the birthing facility.

4.3(5) *Consulting physician responsibility.* Consulting physicians shall be designated by the institute in collaboration with the central laboratory to provide interpretation of test results and consultation to licensed health care providers.

a. Under the direction of consulting physicians, metabolic, endocrine, and hemoglobinopathy follow-up programs shall be available for all individuals identified by newborn metabolic screening. The activities shall include consultation, treatment when indicated, case management, education and quality assurance.

b. The follow-up programs shall submit an annual report to the institute summarizing these activities.

4.3(6) *Central laboratory responsibility.* The central laboratory shall:

a. Process specimens within 24 hours of receipt.

b. Notify the submitting heath care provider, birthing facility or drawing laboratory of an unacceptable specimen and the need for another specimen.

c. Report a presumptive positive test result within 24 hours to the consulting physician or the physician's designee.

d. Distribute specimen collection forms, screening waivers, and other materials to birthing facilities.

e. Provide educational materials concerning specimen collection procedures.

f. Have available for review and provide to the department a written quality assurance policy covering all aspects of its newborn screening activity.

g. Submit semiannual and annual reports to the institute. These reports shall include (1) number of infants screened by birthing facility, (2) number of repeat screens by birthing facility, (3) number of presumptive positive results by disorder, (4) number of confirmed positive results by disorder, (5) number of rejected specimens by facility, (6) number of waivers received by facility, (7) results of quality assurance testing, and (8) screening activity, fiscal accounting and educational activity details.

h. Act as fiscal agent for program charges encompassing the analytical, technical, administrative, educational, and follow-up costs for the screening program.

4.3(7) *Retention, use and disposition of neonatal metabolic screening specimens.*

a. A neonatal metabolic screening specimen collection form consists of dried blood spots on filter paper and attached infant and birthing center information.

b. Specimen collection forms shall be held for one month in a locked area at the central laboratory. After one month, the forms shall be incinerated unless kept for program evaluation or research use.

c. Research use. Only anonymized specimens shall be made available for research purposes.

(1) An anonymized specimen is defined as one which cannot be traced back to or linked with the particular infant from whom the specimen was obtained. Specimens shall be anonymized by removing the dried blood spot portion from the infant information portion of the specimen collection form.

(2) Investigators shall submit proposals to use anonymized specimens to the committee. Any intent to utilize nonidentifiable information associated with the dried blood spot sample for the research study must be clearly delineated in the proposal.

(3) Before research can commence, proposals shall be approved by the appropriate human subjects review committees, the birth defects advisory committee, and the department.

4.3(8) *Neonatal metabolic screening fee determination.*

a. Sixty days prior to the end of the fiscal year, the central laboratory and the consulting physicians shall submit a combined program proposal and budget to the institute for the coming year.

b. The department shall annually review and determine the fee to be charged for all activities associated with this program. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The newborn metabolic screening fee shall be $46 beginning July 1, 2002.

c. The department shall include as part of this fee an amount determined by the committee and department to fund the provision of special medical formula for eligible individuals with inherited diseases of amino acids and organic acids who are identified through the program.

d. Provisions of formula through this funding allocation shall be available to individuals only after the individual has shown that all benefits from third-party payers including, but not limited to, health insurers, health maintenance organizations, Medicare, Medicaid, WIC and other government assistance programs have been exhausted. In addition, a full fee and sliding fee scale charge shall be established and used for those persons able to pay all or a part of the cost. Income and resources shall be considered in the application of the sliding fee scale. Individuals whose income is at or above 185 percent of the federal poverty level shall be charged a fee for the provision of special medical formula. The placement on the sliding fee scale shall be determined and reviewed at least annually.

4.3(9) *Special medical formula program.*

a. A special medical formula program for individuals with inherited diseases of amino acids and organic acids who are identified through the Iowa neonatal metabolic screening program is provided by the University of Iowa.

b. Payments received from clients based on third-party payment, sliding fee scales and donations shall be used to support the administration of the Iowa metabolic formula program and the purchase of medical formula.

c. The funding allocation from the Iowa neonatal metabolic screening program fee will be used as the funder of last resort after all other available funding options have been attempted by the special medical formula program.

641—4.4(136A) Expanded maternal serum alpha-fetoprotein screening program. This program provides comprehensive second trimester maternal screening services for the state.

4.4(1) *Maternal screening policy.* It shall be the policy of the state of Iowa that all pregnant women are offered the Iowa expanded maternal serum alpha-fetoprotein (MSAFP)/Quad Screen. The Iowa expanded MSAFP/Quad Screen measures the maternal serum levels of alpha-fetoprotein, unconjugated estriol, human chorionic gonadotropin, and inhibin-A to provide a risk assessment for open neural tube defects, ventral wall defects, Down syndrome, Trisomy 18, and Smith-Lemli-Opitz. If a patient desires this screening test, the specimen shall be drawn and submitted by her health care provider to the University Hygienic Laboratory, the institute's designated central laboratory.

4.4(2) *Maternal screening procedure.*

a. Collection of specimens. A serum or clotted blood specimen shall be collected from the patient during 15 to 20 weeks of gestation.

b. Processing of specimens. The central laboratory shall test specimens within three working days of receipt.

c. Reporting of abnormal results. Abnormal test results shall be reported within 24 hours to the consulting physician or the physician's designee who shall then notify the submitting health care provider. On the next working day, this initial report shall be followed by a written report to the submitting health care provider.

4.4(3) *Consulting physician responsibility.* A consulting physician shall be designated by the institute in collaboration with the central laboratory to provide interpretation of test results and consultation to the submitting health care provider. This physician shall provide consultation for abnormal test results, assist with questions about management of identified cases, provide education and assist with quality assurance measures. The screening program with assistance from the consulting physician shall submit semiannual and annual reports to the institute detailing program activities.

4.4(4) *Central laboratory responsibility.* The central laboratory shall:

a. Test specimens within three working days of receipt.

b. Distribute specimen collection kits and other materials to health care provider offices and drawing facilities as required.

c. Inform the submitting health care provider or drawing facility of an unacceptable specimen and request another specimen.

d. Provide educational materials concerning specimen collection procedures.

e. Have available for review a written quality assurance program covering all aspects of its screening activity.

f. Submit a monthly report detailing screening activity to the consulting physician. This report shall include (1) number of initial tests, (2) number of repeat tests, and (3) results of quality assurance testing.

g. Act as a fiscal agent for program charges encompassing the analytical, technical, administrative, educational and follow-up costs for the screening program.

4.4(5) *Iowa expanded MSAFP/Quad Screen fee determination.* Sixty days prior to the end of the fiscal year, the central laboratory and the consulting physician shall submit a combined program proposal and budget to the institute for the coming year. The department shall annually review and determine the fee to be charged for activities associated with this program. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year.

641—4.5(136A) Regional genetic consultation service (RGCS). This program provides comprehensive genetic services statewide through outreach clinics.

4.5(1) *Provision of comprehensive genetic services.* The department shall contract with the Division of Medical Genetics within the Department of Pediatrics at the University of Iowa to provide genetic health care and education outreach services for individuals and families within Iowa. The contractor shall provide semiannual and annual reports to the department as specified in the contract.

4.5(2) *Clinic services.* The services provided may include, but are not limited to: diagnostic evaluations, confirmatory testing, consultation by board-certified geneticists, genetic counseling, medical and case management, and referral to appropriate agencies.

4.5(3) *Patient fees.* A sliding fee scale for clinical services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.

Families/clients seen in the regional genetic consultation service clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the RGCS.

641—4.6(136A) Neuromuscular and other related genetic disease program (NMP). This program provides comprehensive services statewide for individuals and families with neuromuscular disorders through outreach clinics.

4.6(1) *Provision of comprehensive services.* The department shall contract with the Department of Pediatrics at the University of Iowa to provide neuromuscular health care, case management and education outreach services for individuals and families within Iowa. The contractor shall provide semiannual and annual reports to the department as specified in the contract.

4.6(2) *Clinical services.* The services provided may include, but are not limited to: diagnostic evaluations, confirmatory testing, physical therapy, consultation by board-certified neurologists, genetic counseling, medical and case management, supportive services and referral to appropriate agencies.

4.6(3) *Patient fees.* A sliding fee scale for clinical services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.

Families/clients seen in neuromuscular outreach clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the neuromuscular outreach clinics.

641—4.7(136A) Iowa birth defects registry. The Iowa birth defects registry provides active birth defect surveillance statewide.

4.7(1) *Definition.* Birth defects shall be defined as any structural or genetic abnormality that may adversely affect a child's health and development. The abnormality must be diagnosed or its signs and symptoms must be recognized within the first year of life.

4.7(2) *Birth defects surveillance policy.* Birth defects occurring in Iowa are reportable conditions and records of these birth defects shall be abstracted pursuant to 641—1.3(139A) and maintained in a central registry.

Birth defects surveillance shall be performed in order to determine the occurrence and trends of birth defects, to conduct thorough and complete epidemiological surveys, to assist in the planning for and provision of services to children with birth defects and their families, and to identify environmental and genetic risk factors for birth defects.

4.7(3) *Central registry activities.*

a. The institute shall establish an agreement with the University of Iowa to implement the activities of the central registry.

b. The central registry shall use the birth defects coding scheme defined by the Centers for Disease Control and Prevention (CDC) of the United States Public Health Service.

c. The central registry staff shall review hospital records, clinical charts, physician's records, vital records and prenatal records pursuant to 641—1.3(139A) and any other information that the central registry deems necessary and appropriate for birth defects surveillance.

d. A reportable defect occurring in a fetal death or pregnancy termination may be included in the central registry.

4.7(4) *Department responsibility.*

a. When a live infant's medical records are ascertained by the central registry, the department or its designee shall inform the parent or legal guardian by letter that this information has been collected and provide the parent or guardian with information about services for which the child and family may be eligible.

b. The institute and the central registry shall annually release aggregate medical and epidemiological information to medical personnel and appropriate state and local agencies for the planning and monitoring of services for children with birth defects.

4.7(5) *Confidentiality and disclosure of information.* Reports, records, and other information collected by or provided to the Iowa birth defects registry relating to a person known to have or suspected of having a birth defect are confidential records pursuant to Iowa Code section 22.7.

Personnel of the central registry and the department shall maintain the confidentiality of all information and records used in the review and analysis of birth defects, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

Central registry personnel are authorized pursuant to 641—1.3(139A) to gather all information relevant to the review and analysis of birth defects. This information may include, but is not limited to, hospital records, physician's records, clinical charts, birth records, death records, fetal death records, prenatal records, vital records, and other reports relevant and necessary for birth defects surveillance.

No individual or organization providing information to the Iowa birth defects registry in accordance with this rule shall be deemed or held liable for divulging confidential information.

4.7(6) *Access to information in the central registry.* The central registry and the department shall not release confidential information except to the following, under the following conditions:

a. The parent or guardian of an infant or child for whom the report is made and who can demonstrate that the parent or guardian has received the notification letter.

b. A local birth-to-three coordinator or an agency under contract with the department to administer the children with special health care needs program, upon receipt of written consent from the parent or guardian of the infant or child.

c. A local health care provider, upon receipt of written consent from the parent or guardian of the infant or child.

d. A representative of a federal or state agency, to the extent that the information is necessary to perform a legally authorized function of that agency. The information provided may not include the personal identifiers of an infant or child with a reportable birth defect.

e. Research purposes.

(1) All proposals for research using the central registry data to be conducted by persons other than program staff shall first be submitted to and accepted by the researcher's institutional review board. Proposals shall then be reviewed and approved by the department and the central registry's executive committee before research can commence.

(2) The central registry shall submit to the Iowa birth defects registry's executive committee for approval a protocol describing any research conducted by the registry in which the registry deems it necessary to contact case subjects and controls.

These rules are intended to implement Iowa Code chapter 136A.

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CHAPTER 102
CONTINUING EDUCATION
FOR FUNERAL DIRECTORS

CHAPTER 103
DISCIPLINE FOR FUNERAL DIRECTORS

CHAPTER 104
FEES

CHAPTERS 105 to 119
Reserved

HEARING AID DISPENSERS

CHAPTER 120
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF EXAMINERS FOR THE LICENSING AND REGULATION OF HEARING AID DISPENSERS

CHAPTER 121
LICENSURE OF
HEARING AID DISPENSERS

CHAPTER 122
CONTINUING EDUCATION FOR
HEARING AID DISPENSERS

CHAPTER 123
Reserved

CHAPTER 84
FEES
[Prior to 6/26/02, see 645—Ch 83]

645—84.1(147,152A) License fees. All fees are nonrefundable.

84.1(1) Licensure fee for license to practice dietetics, licensure by endorsement, or licensure by reciprocity is $100.

84.1(2) Biennial license renewal fee for each biennium is $100.

84.1(3) Late fee for failure to renew before expiration is $50.

84.1(4) Reinstatement fee for a lapsed license or an inactive license is $50.

84.1(5) Duplicate license fee is $10.

84.1(6) Verification of license fee is $10.

84.1(7) Returned check fee is $15.

84.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

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CHAPTER 85
Reserved

CHAPTER 86
AGENCY PROCEDURE FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 87
PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 88
DECLARATORY RULINGS
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 89
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 90
CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/00, effective 8/4/99

CHAPTER 91
IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 92 to 98
Reserved

FUNERAL DIRECTORS

CHAPTER 99
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF MORTUARY SCIENCE EXAMINERS

645—99.1(17A) Definitions.

"Board" means the board of mortuary science examiners.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice as a funeral director in the state of Iowa.

"Licensee" means a person licensed to practice as a funeral director in the state of Iowa.

645—99.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 156 and 272C with regard to the practice of mortuary science. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and the rules of the licensure board. Responsibilities include, but are not limited to:

99.2(1) Licensing of qualified applicants by examination, renewal, endorsement, and reciprocity.

99.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

99.2(3) Imposing discipline on licensees as provided by statute or rule.

645—99.3(17A,147,272C) Organization of board and proceedings.

99.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

99.3(2) The members of the board shall include four members who are licensed to practice mortuary science, one member owning, operating, or employed by a crematory, and two members not licensed to practice mortuary science and not a crematory owner, operator, or employee who shall represent the general public.

99.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

99.3(4) The board shall hold at least one meeting annually.

99.3(5) A majority of the members of the board shall constitute a quorum.

99.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

99.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

99.3(8) The board has the authority to:

a. Develop and implement a program of continuing education to ensure continued competency of individuals licensed by the board.

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of mortuary science upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licenses that are restricted by a board order.

h. Perform any other function as authorized by a provision of law.

645—99.4(17A) Official communications.

99.4(1) All official communications, including submissions and requests, may be addressed to the Board of Mortuary Science Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

99.4(2) Notice of change of address. Each licensee shall notify the board in writing of a change of the licensee's current mailing address within 30 days after the change of address occurs.

99.4(3) Notice of change of name. Each licensee shall notify the board of any change of name within 30 days after changing the name. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

645—99.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—99.6(17A) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

99.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

99.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

These rules are intended to implement Iowa Code chapters 17A, 147, and 156.

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CHAPTER 100
FUNERAL DIRECTORS
[Prior to 9/21/88, see Health Department[470] Ch 146]

645—100.1(156) Definitions.

"Alternative container" means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials which prevents the leakage of body fluid.

"Authorized person" means any available member of the following classes of persons, in the order of priority listed, may make any funeral arrangements and order the final disposition of a decedent:

1. The attorney-in-fact pursuant to a durable power of attorney for health care.
2. The spouse of the decedent.
3. The decedent's surviving adult children. If there is more than one adult child, any adult child, who can confirm in writing the notification of all other adult children, may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult child.
4. A parent of the decedent.
5. An adult sibling of the decedent.
6. A grandparent of the decedent.
7. A guardian of the decedent at the time of the decedent's death.

"Autopsy" means the postmortem examination of a human remains.

"Board" means the board of mortuary science examiners.

"Body parts" means appendages or other portions of the anatomy that are from a human body.

"Burial." See *"Interment."*

"Burial transit permit" means a legal document authorizing the removal and transportation of a human remains.

"Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

"Cemetery" means an area designated for the final disposition of human remains.

"Change of ownership" means a change of controlling interest in a funeral establishment or crematory establishment.

"Columbarium" means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

"Common carrier" means any carrier engaged in the business of transportation of persons or property from place to place for compensation, and who offers services to the public generally.

"Communicable disease" means an illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate reservoir to a susceptible host; either directly or indirectly through an intermediate plant or animal host, vector or the inanimate environment.

"Cremated remains" means the body of a deceased person, including any form of body prosthesis that has been permanently attached or implanted in the body.

"Cremation" means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"Cremation authorization/disposition form" means a form completed and signed, to accompany all human remains accepted for cremation.

"Cremation chamber" means the enclosed space within which the cremation takes place.

"Cremation establishment" means a place of business which provides any aspect of cremation services.

"Cremation permit" means a permit issued by a medical examiner allowing cremation of human remains.

"Cremation room" means the room in which the cremation chamber is located.

"Crematory" means any person, partnership or corporation that performs cremation and sells funeral goods.

"Crypt" means a chamber in a mausoleum of sufficient size to contain casketed human remains.

"Custody" means immediate charge and control exercised by a person or an authority.

"Dead body." See *"Human remains."*

"Death certificate" means a legal document containing vital statistics pertaining to the life and death of the decedent.

"Decedent." See *"Human remains."*

"Disinterment" means to remove human remains from their place of final disposition.

"Disinterment application" means a legal document requesting authorization from the department of public health to disinter a casketed human remains or an urn containing cremated remains from its place of final disposition.

"Disinterment application number" means the number assigned to a disinterment application by the department of public health, giving the funeral director the authority to disinter a casketed human remains or an urn containing cremated remains from its place of final disposition.

"Embalming" means the disinfecting or preserving of dead human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by direct application into the organs or cavities for the purpose of preservation or disinfection.

"Entombment" means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

"Final disposition" means the place where human remains may be interred, entombed, enshrined, scattered or otherwise disposed of.

"First call" means the original notification to the funeral director indicating the place of death from which the human remains are to be removed.

"Funeral ceremony" means a service commemorating the decedent.

"Funeral director" means a person licensed by the board to practice mortuary science.

"Funeral establishment" means a place of business as defined by the board devoted to providing any aspect of mortuary science.

"Funeral rule" means the Federal Trade Commission rule.

MASSAGE THERAPISTS

CHAPTER 130
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF EXAMINERS FOR MASSAGE THERAPY

645—130.1(17A) Definitions.

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

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice massage therapy.

"Licensee" means a person licensed to practice massage therapy in the state of Iowa.

645—130.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 152C and 272C with regard to the practice of massage therapy. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

130.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

130.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

130.2(3) Imposing discipline on licensees as provided by statute or rule.

645—130.3(17A,147,272C) Organization of board and proceedings.

130.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

130.3(2) The members of the board shall include four members who shall be massage therapists and three members who are not licensed massage therapists and who shall represent the general public.

130.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

130.3(4) The board shall hold at least one meeting annually.

130.3(5) A majority of the members of the board shall constitute a quorum.

130.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

130.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

130.3(8) The board has the authority to:

a. Develop and implement a program of continuing education to ensure the continued competency of individuals licensed by the board.

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of massage therapy upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licensees who are restricted by a board order.

h. Perform any other function as authorized by a provision of law.

645—130.4(17A) Official communications.

130.4(1) All official communications, including submissions and requests, may be addressed to the Board of Examiners for Massage Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

130.4(2) Notice of change of address. Each licensee shall notify the board in writing of a change of the licensee's current mailing address within 30 days after the change of address occurs.

130.4(3) Notice of change of name. Each licensee shall notify the board of any change of name within 30 days after changing the name. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

645—130.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—130.6(17A) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

130.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

130.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

These rules are intended to implement Iowa Code chapters 17A, 147, 152C and 272C.

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CHAPTER 2
NURSING EDUCATION PROGRAMS
[Prior to 8/26/87, Nursing Board[590] Ch 2]

655—2.1(152) Definitions.

"Approval" means recognition status given to nursing education programs based on their compliance with the criteria specified in this chapter.

"Clinical facilities" means resources that provide experiences with or related to patients/clients for application and reinforcement of didactic content.

"Clinical nurse preceptor" means a registered nurse or licensed practical nurse practicing in a clinical setting who serves for a specified period of time as a role model and clinical resource person to an individual enrolled in an approved nursing education program.

"Controlling institution" means the institution that has authority and administrative accountability for the program(s).

"Curriculum" means didactic and clinical educational experiences developed, implemented and evaluated by faculty to facilitate achievement of program objectives and meet the learning needs of students.

"Faculty" means the teaching staff in nursing. "Faculty" also means individuals who teach nursing in a nursing education program or who are hired to teach in a program on the basis of education, licensure or practice as a registered nurse. This definition includes anyone who provides didactic or clinical instruction in nursing when assigned by the program to provide this instruction for courses in the curriculum. The definition applies regardless of the amount of time spent teaching, level of payment, type of contract, temporary nature of the position, or location of the learner.

"First professional degree" means the title conferred by a college or university that signifies completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a baccalaureate degree.

"Head of the program" means the dean, chairperson, director, or coordinator of the nursing education program(s) who is responsible for the administration of the program(s).

"Master's degree" means the title conferred by a college or university upon completion of a program of graduate study that requires a level of academic accomplishment and subject mastery substantially beyond that required for a baccalaureate degree.

"NCLEX®" means the National Council Licensure Examination, the examination currently used for initial licensure as a registered nurse or licensed practical nurse.

"Program" means a course of study that leads to a nursing diploma, degree or certificate. Multiple-site programs offered by one controlling institution shall be considered one program if the philosophy and curriculum of all the sites are the same. Programs eligible for board approval shall include all of the following:

1. At least a one academic year course of study or its equivalent in theory and practice as described by the board that leads to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination as described in 655—Chapter 3.
2. At least a two academic year course of study or its equivalent in theory and practice as described by the board that leads to a degree in nursing and to eligibility to apply for registered nurse licensure by examination as described in 655—Chapter 3.
3. A course of study designed for registered nurses that leads to a baccalaureate degree with a major in nursing.
4. A postbaccalaureate course of study that leads to a master's degree with a major in nursing.
5. A course of study designed for registered nurses that leads to a master's degree with a major in nursing.

6. A course of study designed for registered nurses who hold a master's degree in nursing that leads to a certificate in advanced practice nursing. When the certificate is in a clinical specialty area, the course of study shall lead to eligibility to apply for certification in the clinical specialty by a national professional nursing organization approved by the board and to eligibility for registration as an advanced registered nurse practitioner as described in 655—Chapter 7.

7. A post-master's course of study that leads to a doctoral degree with a major in nursing.

655—2.2(152) Approval of programs.

2.2(1) *Approval status.* The board shall determine the approval status of each program. The board shall review all programs within a controlling institution at the same time when feasible. The board shall provide written documentation of program approval status to the head of the program and the controlling institution.

2.2(2) *Interim approval.* Interim approval shall be granted to a new program that meets the requirements specified in this rule.

a. A controlling institution that proposes to establish or reopen a program shall:

(1) Submit a written statement of intent to the board at least nine months prior to the expected opening date.

(2) Utilize an advisory committee composed of representatives of the community and nurses. Minutes of meetings shall be on file.

(3) Submit the following information to the board at least six months prior to the expected opening date:

1. Program philosophy, objectives and purpose that reflect the proposed level of education.
2. Organizational chart.
3. Budget that demonstrates sufficient financial resources to plan, implement and sustain the program.
4. Curriculum that meets the criteria in rule 2.5(152).
5. Evidence of provision of educational facilities and services that enable the program to meet its objectives and the learning needs of students.
6. Evidence of availability of clinical facilities and resources to meet curriculum objectives.
7. Evidence of provision of qualified faculty as defined in rule 2.6(152).
8. Tentative time schedule for planning and implementing the program.

b. The board may conduct a site visit to the controlling institution and clinical facilities to validate information submitted by the program prior to determining interim approval status.

c. The board shall grant interim approval, deny interim approval, or seek additional information, based upon review of the statement of intent, written information submitted by the program, and the written report of a site visit if conducted.

d. The head of the program shall be employed by the controlling institution for a minimum of six months prior to the expected opening date.

e. Faculty shall be employed by the controlling institution prior to the beginning of teaching assignments. Sufficient time shall be allowed for orientation and preparation for teaching. Faculty members who teach nursing shall meet the qualifications outlined in subrule 2.6(2).

f. The head of the program shall submit nine copies of a progress report at least three weeks prior to each regularly scheduled board meeting until full approval as described in subrule 2.2(3) is granted by the board.

g. The controlling institution shall publish the interim approval status of the program.

h. Interim approval shall continue until the board reviews the program following graduation of the first class and submission of results of the national examinations for licensure or advanced practice certification, if applicable.

2.2(3) *Approval procedure.*

a. The board shall provide to the program the schedule and criteria for approval. The board shall provide supporting information upon request.

b. The program shall provide to the board a self-assessment report that addresses all aspects of the program outlined in rules 2.3(152) to 2.9(152) and that documents how the criteria for approval are met. Documentation may include current information submitted by the program to other approving and accrediting entities.

c. A representative of the board shall make a site visit to the program prior to expiration of approval status or if there is evidence that the program does not meet the criteria for approval. The purpose of a site visit is to determine if the program meets the criteria for approval. The site visit may be conducted jointly with representatives of other approving and accrediting entities. The board may conduct a site visit to clinical facilities used for student learning experiences.

d. The board shall provide to the head of the program a report addressing the self-assessment and site visit. The head of the program shall be provided an opportunity to respond. The report and program response shall be submitted for board review.

e. The board shall determine the approval status of the program.

(1) Full approval may be granted or continued for up to six years.

(2) Provisional approval may be granted to a program that has had interim or full approval if the board determines that the program does not meet the criteria for approval. The board shall:

1. Meet with representatives of the program prior to the program's placement on provisional approval to determine the length of provisional approval and to identify outcomes and time limits. The board may require progress reports and a site visit.

2. Meet with representatives of the program prior to expiration of the program's provisional approval to determine if outcomes are met.

3. Deny or withdraw approval if the board determines that the program failed to meet the conditions for approval.

2.2(4) *Closure of an approved program.* Prior to program closure, the controlling institution shall submit a written plan for board approval. The plan shall include reasons for closure, and date of closure defined as the date when the last student graduates. The plan shall also address provision for graduation of enrolled students, retention of adequate numbers of qualified faculty, retention of approved curriculum, maintenance of educational resources and student services, and provision for student and graduate transcripts. When a program plans to close prior to graduation of the enrolled students who are actively taking nursing courses, the plan shall be submitted to the board at least 12 months prior to closure. The board may shorten the 12-month time period if the board determines that the controlling institution has made adequate provisions for enrolled students.

a. Voluntary closure. The program shall continue to meet the criteria for board approval until all enrolled students have graduated or the board has approved a plan for closure prior to graduation of the students. The board may require progress reports during the closure process.

b. Closure as a result of denial or withdrawal of board approval. The controlling institution shall implement the time frame established by the board for transfer of enrolled students to an approved program and report to the board the date of transfer for each student by name. Program closure shall occur when the last student has transferred. The board may require progress reports during the closure process.

c. Record storage. Prior to closure, the controlling institution shall notify the board of the location and maintenance of student and graduate transcripts and records.

655—2.3(152) Organization and administration of the program.

2.3(1) The program shall meet the following criteria:

a. Authorization. Authorization for conducting a program is granted in accordance with Iowa Code chapter 261B. Such authorization is provided by the Iowa secretary of state.

b. Authority and administrative responsibility. The authority and administrative responsibility of the program shall be vested in the head of the program who is responsible to the controlling institution.

c. Organizational chart. The organization chart(s) shall clearly indicate the lines of authority and communication within the program and with the central administration, other units within the controlling institution, cooperating agencies, and advisory committees.

d. Finances.

(1) The controlling institution shall allocate adequate funds to carry out the purposes of the program.

(2) The head of the program shall prepare the budget with the assistance of the faculty.

e. Ethical practices. Ethical practices and standards, including those for recruitment and advertising, shall be consistent with those of the controlling institution and shall be made available to students and prospective students.

f. Contractual agreements. Written contractual agreements shall exist between the program and the clinical facilities. The agreements shall include:

(1) Identification of responsibilities of both parties related to patient or client services.

(2) Faculty control, selection and guidance of student learning experiences.

(3) Provision for termination of the agreement.

(4) Provision for annual review.

g. Accrediting and approving agencies.

(1) The controlling institution or program shall be accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools.

(2) When the program is located in a community college, the controlling institution shall be approved by the Iowa department of education.

(3) When the program is offered under the auspices of the United States armed forces, it shall be accredited by the U.S. Department of the Army.

h. Philosophy/mission and objectives. The faculty shall develop a philosophy or mission statement and objectives that shall be:

(1) Consistent with the philosophy or mission of the controlling institution.

(2) Reflective of faculty beliefs about nursing, education and professional standards.

(3) A guide in the development, implementation and evaluation of the program.

(4) Available to students and prospective students.

i. Program evaluation. A written plan shall outline the evaluation process for all aspects of the program and identify the methodology, tools, responsible parties and time frame. Evidence of implementation shall reflect achievement of program objectives.

2.3(2) The head of a program shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa. An individual is currently licensed when licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Two years of experience in nursing education.

d. Academic qualifications:

(1) The head of a program who was employed on July 1, 1992, shall be considered adequately prepared as long as that person remains in that position.

(2) The head of a program hired after July 1, 1992, shall have a master's or doctoral degree with a major in nursing at either level at the time of hire. A first professional degree as defined in rule 2.1(152) does not meet this requirement. The date of hire is the first day employed as head of the program with compensation at a particular nursing education program.

(3) If a program offers a baccalaureate or higher degree in nursing, the head of the program shall have a doctoral degree at the time of hire.

e. Submission of qualifications to the board office within one month of appointment.

f. The nursing education programs in the community colleges shall have one head of the program per community college district.

655—2.4(152) Resources of the controlling institution. The controlling institution is responsible for provision of resources adequate to meet program needs.

a. Human resources. Human resources shall include the following:

(1) Head of program.

(2) Faculty.

(3) Secretarial and other support and staff services to ensure appropriate use of faculty time and expertise.

b. Physical resources. Physical resources may include the following:

(1) Classrooms, conference rooms, laboratories, offices, and equipment.

(2) Student facilities.

c. Learning resources. Learning resources shall include the following:

(1) Library.

(2) Print media.

(3) Computer-mediated resources.

655—2.5(152) Curriculum.

2.5(1) The curriculum of a program shall:

a. Reflect the philosophy/mission and objectives of the program.

b. Identify program outcomes.

c. Reflect current nursing, education, and professional standards.

d. Be consistent with the laws governing the practice of nursing.

e. Ensure sufficient preparation for the safe and effective practice of nursing.

f. Include teaching/learning experiences and strategies that meet curriculum objectives.

g. When offered within a college or university:

(1) Be comparable to the quality and requirements of other degree programs within the college or university.

(2) Be planned within the college or university calendar.

(3) Assign credit hours for lecture and clinical or laboratory experience that are consistent with the college or university pattern.

2.5(2) Prelicensure programs.

a. The curriculum of a program leading to eligibility for initial licensure as a licensed practical nurse or registered nurse shall include:

(1) Content that is consistent with the practice of nursing as defined in Iowa Code section 152.1.

(2) Content and learning experiences in nursing of clients throughout the life span during acute, episodic, and chronic illnesses and at the end of life.

(3) Opportunity to participate in the nursing process and to develop skill in direct patient care, problem solving methodologies, clinical judgment, communication, and use of current equipment and technology.

(4) Content in nursing history and trends, including professional, legal, and ethical aspects.

(5) Supporting content from the natural and social sciences.

b. In addition to the requirements identified in paragraph *"a,"* the curriculum of a program leading to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination shall:

(1) Be consistent with the legal implications within the scope of practice of a licensed practical nurse as outlined in rules 655—6.3(152) and 655—6.6(152).

(2) Focus on supportive or restorative care provided under the supervision of a registered nurse or physician pursuant to Iowa Code section 152.1(4).

(3) Provide content and learning experiences in medical, surgical, and gerontological nursing and nursing of childbearing families and children.

c. In addition to the requirements identified in paragraph *"a,"* the curriculum of a program leading to a degree in nursing and to eligibility to apply for registered nurse licensure by examination shall:

(1) Be consistent with the legal implications within the scope of practice of a registered nurse as outlined in rules 655—6.2(152) and 655—6.7(152).

(2) Focus on attaining, maintaining, and regaining health for individuals and groups by utilizing principles of leadership, management, and client education.

(3) Provide content and learning experiences in health promotion, illness prevention, and rehabilitation in the areas of medical, surgical, mental health, and gerontological nursing, nursing of childbearing and childrearing families, and nursing of children.

(4) Include nursing research and community health nursing when the program leads to a baccalaureate, master's or doctoral degree.

2.5(3) Postlicensure programs for registered nurses who do not hold a baccalaureate degree in nursing.

a. The curriculum of a program that leads to a baccalaureate degree in nursing shall include content and learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of baccalaureate education.

b. The curriculum of a program that leads to a master's degree in nursing shall include content and learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of baccalaureate education and master's education.

2.5(4) Master's, post-master's, and doctoral programs for registered nurses who hold a baccalaureate degree in nursing.

a. The curriculum of a program leading to a master's or doctoral degree in nursing shall include in-depth study of:

(1) Nursing science, including didactic content, learning experiences and research.

(2) Advanced role areas in nursing.

b. The curriculum of a program leading to a master's degree or post-master's certificate in a nursing clinical specialty area, eligibility to apply for certification in the specialty area by a national professional nursing organization approved by the board, and registration as an advanced registered nurse practitioner shall:

(1) Be consistent with the legal implications within the scope of practice of the advanced registered nurse practitioner as described in 655—Chapter 7.

(2) Include advanced didactic content and learning experiences in a specialty area of nursing.

2.5(5) Nursing courses with a clinical component. The nursing program shall notify students and prospective students that nursing courses with a clinical component may not be taken by a person:

a. Who has been denied licensure by the board.

b. Whose license is currently suspended, surrendered or revoked in any United States jurisdiction.

c. Whose license/registration is currently suspended, surrendered or revoked in another country due to disciplinary action.

655—2.6(152) Faculty.

2.6(1) *Program requirements.* The program shall provide:

a. A sufficient number of faculty who satisfy the requirements in subrule 2.6(2) to meet program objectives.

b. Written personnel policies and position descriptions.

c. A faculty development program that furthers the competence of individual faculty members and the faculty as a whole.

d. A written teaching-load policy.

e. A nursing faculty organization that operates according to written bylaws and meets on a regular basis. Minutes shall be available for reference.

f. In a prelicensure program, a ratio of one faculty member to a maximum of eight students in practice situations involving direct patient care after September 1, 2002.

2.6(2) *Faculty member requirements.* A faculty member who teaches nursing shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa prior to teaching. An individual is currently licensed when licensed in another state and recognized for licensure in Iowa pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Academic qualifications:

(1) A faculty member who was employed on July 1, 1992, shall be considered adequately prepared as long as that faculty member remains in that position. A faculty member who was hired to teach in a prelicensure registered nurse program after July 1, 1992, shall have at least a baccalaureate degree with a major in nursing or in an applicable field at the time of hire. This person shall make annual progress toward the attainment of a master's or doctoral degree with a major in nursing or in an applicable field. An individual who has earned a first professional degree as defined in rule 2.1(152), but does not hold a master's degree as defined in rule 2.1(152), must meet the requirement for annual progress. One degree shall be in nursing.

1. Applicable fields include but are not limited to education, counseling, psychology, sociology, health education, health administration, and public health. A person who wishes to fulfill this requirement with education in an applicable field not listed may petition the board for a determination of applicability.

2. The date of hire is the first day employed with compensation at a particular nursing education program.

3. Annual progress means a minimum of one course per year taken as part of an organized plan of study.

(2) A faculty member who was hired to teach after July 1, 1992, in a practical nursing program or the first level of an associate degree nursing program with a ladder concept shall have a baccalaureate or higher degree in nursing or in an applicable field at the time of hire.

(3) A registered nurse hired to teach in a master's program shall hold a master's or doctoral degree with a major in nursing at the time of hire. A first professional degree as defined in rule 2.1(152) does not meet this requirement. A registered nurse teaching in a clinical specialty area shall hold a master's degree with a major in nursing, advanced level certification by a national professional nursing organization approved by the board in the clinical specialty area in which the individual teaches, and current registration as an advanced registered nurse practitioner according to the laws of the state(s) in which the individual teaches. Faculty preparation at the doctoral or terminal degree level shall be consistent with the mission of the program.

(4) A faculty member hired only to teach in the clinical setting shall be exempt from subparagraphs (1) and (2) if the faculty member is closely supervised to ensure proper integration of didactic content into the clinical setting. If hired after July 1, 1992, a faculty member hired to teach only in the clinical setting shall have a baccalaureate degree in nursing or in an applicable field or shall make annual progress toward the attainment of such a degree.

(5) Pursuant to 655—Chapter 15, the head of a program may petition the board for a waiver of the requirements in subrules 2.3(2) and 2.6(2). Following review of the circumstances and effort by the program to meet the requirements, the board may issue a waiver for a specified period of time and indicate conditions that must be met.

2.6(3) *Functions of faculty.* Faculty members shall:

a. Develop, implement, and evaluate the purpose, philosophy/mission, and objectives of the program.
b. Design, implement, evaluate, and revise the curriculum.
c. Provide students with written policies as specified in subrule 2.7(1).
d. Participate in academic advising and guidance of students.
e. Provide for admission, progression, and graduation of students.
f. Provide for student, self, and peer evaluation of teaching effectiveness.
g. Participate in activities to ensure competency in area(s) of responsibility.

655—2.7(152) Program responsibilities.

2.7(1) *Policies affecting students.* Programs shall provide for the development, implementation and communication of the following student policies concerning:

a. Admission/enrollment. Licensure if applicable according to 655—subrule 3.2(1).
b. Transfer or readmission.
c. Withdrawal.
d. Progression.
e. Grading system.
f. Suspension or dismissal.
g. Graduation.
h. Health.
i. Counseling.
j. Grievance procedure.

2.7(2) *Information about the program and controlling institution.* The following information shall be published at least every two years:

a. Philosophy/mission and objectives of the program.
b. General description of the program.
c. Curriculum plan.
d. Course descriptions.
e. Resources.
f. Faculty.
g. Tuition, fees and refund policies.
h. Ethical practices, including recruitment and advertising.
i. Official dates.

2.7(3) *Program records.* The following records shall be dated and maintained according to the policies of the controlling institution:

a. Course syllabi.
b. Minutes.
c. Faculty personnel records.
d. Catalogs and program bulletins.

2.7(4) *Student and graduate records.*

a. Policies shall specify methods for permanent maintenance and protection of records against loss, destruction, and unauthorized use.
b. The final record shall include the official transcript and a summative performance statement.
(1) The final official transcript shall include:
1. Legal name of student.
2. Dates of admission, completion of the program and graduation.
3. Courses that were accepted for transfer.
4. Evidence of authenticity.
(2) The summative performance statement shall relate the performance of the student at the time of graduation to the program objectives.

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655—3.7(17A,147,152,272C) License cycle.

3.7(1) *Name and address changes.* Written notification to the board of name and address changes is mandatory as defined in Iowa Code section 147.9. Licensure documents are mailed to the licensee at the address on file in the board office. There is no fee for a change of name or address in board records.

3.7(2) *New licenses.* The board shall issue licenses by endorsement and examination for a 24- to 36-month period. When the license is renewed, it will be placed on a three-year renewal cycle. 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 licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in paragraph *"g."*

d. A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in paragraph *"g."*

e. A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training on abuse identification and reporting in dependent adults and children or condition(s) for rule suspension as identified in paragraph *"g."*

Training may be completed through separate courses as identified in paragraphs *"c"* and *"d"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

f. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"c"* to *"e,"* including program date(s), content, duration, and proof of participation.

g. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

h. The board may select licensees for audit of compliance with the requirements in paragraphs *"c"* to *"g."*

3.7(4) *Late renewal.* The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 3.1(17A,147,152,272C).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date on the wallet card.

b. To place the late license on inactive status, the licensee shall submit a written request for inactive status and pay the late fee. No continuing education shall be required. The license of an individual who is 70 years of age or older will be placed on inactive status upon request without the late fee.

3.7(5) *Delinquent status.* The license shall become delinquent when the license has not been renewed by the fifteenth day of the month following the expiration date on the wallet card.

a. If the delinquent license is not reinstated, it shall remain delinquent.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the license is reinstated to active status. If the licensee is identified as practicing nursing with a delinquent license, disciplinary proceedings shall be started.

c. To reinstate to active licensure status, the licensee shall contact the board office.

(1) The licensee shall be provided an application, a continuing education report form and statement of the fee. The delinquent fee is specified in rule 3.1(17A,147,152,272C).

(2) The licensee shall have completed 12 contact hours of continuing education as specified in 655—Chapter 5, earned within the 12 months prior to reinstatement.

(3) Upon receipt of the completed application, required continuing education materials, the renewal and delinquent fees, and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, it will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the birth month.

d. To reinstate to inactive licensure status, the licensee shall submit a written request for inactive status and pay the delinquent fee as specified in rule 3.1(17A,147,152,272C).

(1) Continuing education shall not be required.

(2) The license of an individual who is 70 years of age or older will be placed on inactive status upon request without payment of the delinquent fee.

3.7(6) *Inactive status.* When the license is inactive, the licensee who resides in Iowa or a noncompact state shall not practice nursing in Iowa. The licensee is not required to obtain continuing education or pay fees. The license must remain on inactive status for a minimum of 30 days.

a. A licensee may request inactive licensure status by one of the following methods:

(1) Return the current wallet card prior to expiration of the license with a written request for inactive status. Inactive status becomes effective immediately upon board receipt of the wallet card.

(2) Submit a renewal form marked "inactive status" prior to expiration of the license. Inactive status becomes effective when the current license expires.

(3) Submit a request for inactive status, either in writing or over the Internet, 60 days prior to license expiration. Inactive status becomes effective when the current license expires.

(4) A delinquent license may be placed on inactive status as described in paragraph 3.7(5)*"d."*

b. To reactivate the license, the licensee shall contact the board office.

(1) The licensee shall be provided an application and continuing education report form.

(2) The licensee shall have completed 12 contact hours of continuing education as specified in 655—Chapter 5, earned within the 12 months prior to reactivation.

(3) The licensee shall submit the reactivation fee as specified in rule 3.1(17A,147,152,272C).

(4) Upon receipt of the completed application, required continuing education materials, fee, and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, it will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the birth month.

3.7(7) *Duplicate wallet card or certificate.* A duplicate wallet card is required if the current one is lost, stolen or destroyed. The licensee shall be issued a duplicate wallet card or certificate upon receipt of a written request from the licensee and receipt of the fee as specified in rule 3.1(17A,147, 152,272C). If the licensee notifies the board that the documents have not been received within 60 days after being mailed, no fee shall be required.

3.7(8) *Reissue of a certificate or wallet card.* The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 3.1(17A,147,152,272C). No fee shall be required if an error was made by the board on the original document.

This rule is intended to implement Iowa Code sections 147.2 and 147.9 to 147.11.

655—3.8(17A,147,152,272C) Verification. Upon written request from the licensee or another jurisdiction 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 jurisdiction or entity that the license of a registered nurse/licensed practical nurse is active, inactive or lapsed in Iowa.

This rule is intended to implement Iowa Code sections 147.2 and 147.8.

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EXAMPLE 3: C, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. One percent of these goods are shipped to a purchaser in Iowa, and the other 99 percent are shipped to a purchaser outside Iowa. C is required to file an Iowa income tax return because a portion of the goods were shipped to a purchaser in Iowa.

EXAMPLE 4: D, a foreign corporation, has retail stores in Iowa. D also stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. The goods are then delivered to a purchaser outside Iowa. D is required to file an Iowa income tax return because its Iowa activities are not limited to the storage of goods in a warehouse for hire in Iowa.

EXAMPLE 5: E, a foreign corporation, has goods delivered by a common carrier, F, into a warehouse for hire in Iowa. The goods are stored in the warehouse for a period of 40 consecutive days, and are then delivered to a purchaser outside Iowa. If this is E's only activity in Iowa, E is not required to file an Iowa income tax return. However, F is required to file an Iowa income tax return because it derives income from transportation operations in Iowa.

52.1(10) *Deferment of income for start-up companies.* For tax periods beginning on or after January 1, 2002, a business that qualifies as a "start-up" business can defer taxable income for the first three years that the business is in operation.

a. Definition of start-up business. A start-up business for purposes of this subrule does not include any of the following:

(1) An existing business locating in Iowa from another state.

(2) An existing business locating in Iowa from another location in Iowa.

(3) A newly created business which is the result of the merger of two or more businesses.

(4) A newly created subsidiary or new business of a corporation.

(5) A previously existing business which has been dissolved and reincorporated.

(6) An existing business operating under a different name and located in a different location.

(7) A newly created partnership owned by two or more of the same partners as an existing business and engaging in similar business activity as the existing business.

(8) A business entity that reorganizes or experiences a change in either the legal or trade name of the business.

(9) A joint venture.

b. Criteria for deferment of taxable income. In order to qualify for the deferment of taxable income for a start-up business, each of the following criteria must be met:

(1) The taxpayer is a business that is a wholly new start-up business beginning operations during the first tax year for which the deferment of taxable income is claimed.

(2) The business has its commercial domicile, as defined by Iowa Code section 422.32, in Iowa.

(3) The operations of the business are funded by at least 25 percent venture capital moneys. "Venture capital moneys" means an equity investment from an individual or a private seed and venture capital fund whose only business is investing in seed and venture capital opportunities. "Venture capital moneys" does not mean a loan or other nonequity financing from a person, financial institution or other entity.

(4) The taxpayer does not have any delinquent taxes or other debt outstanding and owing to the state of Iowa.

c. Request for deferment of income. A taxpayer must submit a request to the department for the deferment of taxable income. The request must provide evidence that all of the criteria to qualify as a start-up business have been met. The request should be made as soon as possible after the close of the first tax year of the business. The request is to be filed with the Iowa Department of Revenue and Finance, Policy Section, Compliance Division, P.O. Box 10457, Des Moines, Iowa 50306-0457. Upon determination that the criteria have been met, the department will notify the taxpayer that the deferment of taxable income is approved. If the request for deferment of taxable income is denied, the taxpayer may file a protest within 60 days of the date of the letter denying the request for deferment of taxable income. The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

d. Filing of tax returns. If the request for deferment of taxable income is approved, taxable income for the first three years that the business is in operation is deferred. The taxpayer shall pay taxes on the deferred taxable income in five equal annual installments during the five tax years following the three years of deferment. Tax returns must be filed for each tax year in which the deferment is approved. If the taxpayer has a net loss during any tax year during the three-year deferment period, the loss may be applied to any deferred taxable income during that period. For purposes of assessing penalty and interest, the tax on any deferred income is not due and payable until the tax years in which the five equal annual installments are due and payable.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A qualifying start-up business reports Iowa taxable income of $1,000 in year one, $5,000 in year two and $10,000 in year three. The total tax deferred is $60 in year 1, $300 in year two and $600 in year three, or $960. The taxpayer shall pay $192 ($960 divided by 5) in deferred tax for each of the next five tax returns. No penalty or interest is due on the deferred annual tax of $192 if the returns for years four through eight are filed by the due date and the tax is timely paid. After the return for year three is filed, the department will issue a schedule to the qualifying business indicating that $192 of additional tax is due annually for years four through eight, and when the additional payments of $192 are due.

EXAMPLE 2: A qualifying start-up business reports an Iowa taxable loss of $10,000 in year one, a loss of $2,000 in year two and taxable income of $22,000 in year three. The losses for year one and year two can be netted against the income in year three, resulting in deferred taxable income of $10,000. The tax of $600 computed on income of $10,000 will be paid in five equal installments of $120 for the next five tax returns. No penalty or interest is due on the deferred annual tax of $120 if the returns for years four through eight are filed by the due date and the tax is timely paid. After the return for year three is filed, the department will issue a schedule to the qualifying business indicating that $120 of additional tax is due annually for years four through eight and when the additional payments of $120 are due.

This rule is intended to implement Iowa Code sections 422.21, 422.32, 422.33, 422.34, 422.34A and 422.36 and 2002 Iowa Acts, House File 2592.

701—52.2(422) Time and place for filing return.

52.2(1) *Returns of corporations.* A return of income for all corporations must be filed on or before the due date. The due date for all corporations excepting cooperative associations as defined in Section 6072(d) of the Internal Revenue Code is the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the last day of the period covered by an extension of time granted by the director. When the due date falls on a Saturday, Sunday or a legal holiday, the return will be due the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Corporate Income Tax Processing, Hoover State Office Building, Des Moines, Iowa 50319.

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CHAPTER 150
IMPROVEMENTS AND MAINTENANCE ON PRIMARY ROAD EXTENSIONS

[Prior to 6/3/87, Transportation Department[820]—(06,L) Ch 1]

761—150.1(306) Definitions.

"City" means a municipal corporation as defined in Iowa Code section 362.2.

"Federal control limits" means the area within the primary highway right-of-way limits, including right-of-way lines extended across side streets and roads. The term includes areas on side streets and roads where the department has acquired access control rights in accordance with 761—Chapter 112.

"Freeway" means a primary highway constructed with Priority I access control. For the purpose of highway lighting, "freeway" means a primary highway constructed with Priority I access control for a length of five miles or greater.

"MUTCD" means the "Manual on Uniform Traffic Control Devices," as adopted in 761—Chapter 130.

"Nonfreeway primary highway" means a primary highway that is not a freeway.

"Right-of-way" means the land for any public road, street or highway, including the entire area between the property lines.

This rule is intended to implement Iowa Code sections 306.2, 306.3 and 362.2.

761—150.2(306) Improvements and maintenance on extensions of freeways.

150.2(1) *Construction.* Except as otherwise provided, the department shall be responsible for all right-of-way and construction costs associated with the construction of freeways and their extensions.

a. The department shall expect the city to be responsible for providing, without cost to the department, all necessary right-of-way which involves:

(1) Dedicated streets or alleys, and

(2) Other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

b. Outside the federal control limits, the department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction in the proportion that the street right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be expected to be responsible for the remaining portion of storm sewer costs not paid for by the department.

c. The department shall be responsible for all storm-sewer related costs within the federal control limits.

150.2(2) *Maintenance.* The department shall have an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, maintenance responsibilities shall be as follows:

a. The department shall be responsible for all maintenance costs on the through roadway, the on and off ramps, and the roadside features from right-of-way line to right-of-way line.

b. Where city streets cross the freeway, the department shall be responsible for:

(1) Roadside maintenance within the limits of the freeway fence.

(2) Surface drainage of the right-of-way.

(3) Traffic signs and pavement markings required for freeway operation.

(4) Guardrail at piers and bridge approaches.

(5) Expansion relief joints in approach pavement and leveling of bridge approach panel(s).

(6) All maintenance of bridges including deck repair, structural repair, berm slope protection, painting, and inspection, except as noted in paragraph "*c*" of this subrule.

c. Where city streets cross the freeway, the department shall expect the city to be responsible for:

(1) All roadside maintenance outside the freeway fence.

(2) All pavement, subgrade and shoulder maintenance on the cross street except expansion relief joints and bridge approach panel leveling.

(3) All traffic lane markings on the cross street.

(4) Snow removal on the cross street including bridges over the freeway.

(5) Cleaning and sweeping bridge decks on streets crossing over the freeway.

d. The department shall expect the city to be responsible for maintenance and repair of pedestrian overpasses and underpasses including snow removal, painting, lighting and structural repairs.

e. Should local service roads or streets be constructed as a part of a project, upon completion they shall become a part of the city street system. The department shall not be responsible for the maintenance of these roads or streets and corresponding drainage structures.

150.2(3) *Lighting.*

a. The department shall be responsible for the cost of installation of lighting on the main-traveled-way lanes and the on and off ramps including the terminals with cross streets when the department determines that lighting is required under established warrants.

b. The department shall be responsible for the energy and maintenance costs of lighting on the main-traveled-way lanes.

c. The department shall be responsible for the energy and maintenance costs of lighting through interchange areas and ramps thereto at interchanges between freeways which do not provide service to local streets.

d. The department shall be responsible for the energy and maintenance costs of lighting in interchange areas at interchanges between freeways and primary roads which are on corporate lines.

e. At interchanges with city cross streets, the department shall be responsible for the energy and maintenance costs of lighting on the main-traveled-way lanes, on and off ramps, ramp terminals, and, when the department determines full interchange lighting is required, the cross street between the outermost ramp terminals.

f. The department shall not be responsible for the installation, energy, and maintenance costs of any lighting on cross streets in advance of interchanges and between the outermost ramp terminals at interchanges where the department determines partial interchange lighting or no lighting is required.

g. Warrants for the lighting of freeways shall be according to the 1984 "AASHTO Information Guide for Roadway Lighting."

150.2(4) *Traffic signals at ramp terminals with cross streets.*

a. All traffic signal installations shall meet the standards and warrants established in the MUTCD.

b. On projects initiated by the department, the department may install, at no cost to the city, traffic signals warranted when replacing existing pavement or adding new lanes. In conjunction with these projects, the department may also participate in the cost of signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment.

c. When new pavement construction or additional lanes are not involved, the department may participate in the installation costs of new and modernized traffic signals or signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment; the city shall prepare plans, award the contract, supervise the installation, and be responsible for the remaining installation costs.

d. Modifications made to the traffic signal system to coordinate it with other city signal systems (not on the primary road extension system) shall be the sole financial responsibility of the city.

e. The department shall not assume ownership and shall not be responsible for the energy and maintenance costs involved in the operation of traffic signals.

f. Signal phasing, initial and future, as well as timing and coordination between intersections shall be coordinated between the department and the city.

This rule is intended to implement Iowa Code sections 306.4, 313.4, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5 and 314.6 and chapter 306A.

761—150.3(306) Improvements and maintenance on extensions of nonfreeway primary highways.

150.3(1) *Construction.*

a. The department shall be responsible for all right-of-way and construction costs to construct nonfreeway primary highways and their extensions to the minimum design criteria as established by the department. Construction improvement costs beyond minimum design criteria shall be the responsibility of the city, as specified in the project agreement. Minimum design criteria shall be in accordance with "A Policy on Geometric Design of Highways and Streets, 2001" (Fourth Edition Green Book).

b. The department shall expect the city to be responsible for providing, without cost to the department, all necessary right-of-way which involves:

(1) Dedicated streets or alleys, and

(2) Other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

c. The city shall be expected to take all necessary legal action to discontinue and prohibit any past or present use of project right-of-way for private purposes. The city shall be expected to prevent any future encroachment or obstruction within the limits of project right-of-way.

d. The department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes in the proportion that the right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be expected to be responsible for the remaining portion of storm sewer costs not paid for by the department.

e. Unless otherwise mutually agreed to and specified in the agreement, the department shall be responsible for the cost of right-of-way and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes.

150.3(2) *Maintenance.* The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, maintenance responsibilities shall be as follows:

a. On primary roads constructed with a curbed cross section, the department shall be responsible for:

(1) Maintenance and repairs to pavement and subgrade from face of curb to face of curb exclusive of parking lanes, culverts, intakes, manholes, public or private utilities, sanitary sewers and storm sewers.

(2) Primary road signing for moving traffic as set out in subrule 150.4(1), pavement markings for traffic lanes, guardrail and stop signs at intersecting streets.

(3) Surface drainage only, within the limits of pavement maintenance.

(4) Plowing of snow from the traffic lanes of pavement and bridges and treatment of traffic lanes with abrasives and chemicals.

(5) Inspection, painting and structural maintenance of bridges as defined in Iowa Code section 309.75.

b. On primary roads constructed with a rural cross section (no curb), the department shall be responsible for all maintenance, except that tree removal, sidewalks, retaining walls and repairs due to utility construction and maintenance shall be the city's responsibility.

c. On primary roads constructed with a curbed cross section, the city shall be responsible for:

(1) Maintenance and repairs to pavement in parking lanes, intersections beyond the limits of department pavement maintenance, curbs used to contain drainage, and repairs to all pavement due to utility construction, maintenance and repair.

(2) Painting of parking stalls, stop lines and crosswalks, and the installation and maintenance of flashing lights. Pavement markings shall conform to the MUTCD.

(3) Maintenance of all storm sewers, manholes, intakes, catch basins and culverts used for collection and disposal of surface drainage.

(4) Removal of snow windrowed by departmental plowing operations, removal of snow and ice from all areas outside the traffic lanes, loading or hauling of snow which the city considers necessary and removal of snow and ice from sidewalks on bridges used for pedestrian traffic.

(5) Maintenance of sidewalks, retaining walls and all areas between curb and right-of-way line.

(6) Cleaning, sweeping and washing of streets.

(7) Maintenance and repair of pedestrian overpasses and underpasses including snow removal, painting and structural repairs.

d. The department shall expect the city to comply with the access control policy of the department as adopted in 761—Chapter 112, and to obtain prior approval from the department for any changes to existing entrances or for the construction of new entrances.

e. Drainage district assessments levied against the primary road within the corporate limits of the city shall be shared equally by the department and the city.

f. Should local service roads or streets be constructed as a part of a project, upon completion they shall become a part of the city street system. The department shall not be responsible for the maintenance of these roads or streets and corresponding drainage structures.

g. Rescinded IAB 10/2/02, effective 11/6/02.

150.3(3) *Lighting.*

a. The department shall not be responsible for the installation, energy, and maintenance costs of lighting on extensions of nonfreeway primary highways. The city may elect to provide lighting at its own expense. However:

(1) For cities with a population of 5,000 or less, the department may elect to install interchange lighting and to be responsible for or to participate in the energy and maintenance costs of this lighting.

(2) On a new construction project that results in a predominately fully controlled access highway, but incorporates some nonfreeway segments, the department may elect to participate in the installation of lighting at conflict points if the city agrees to be responsible for the energy and maintenance costs of this lighting.

b. At corporate line primary road junctions, the lighting shall be installed where necessary by the department in accordance with department warrants. The department shall be responsible for the installation costs. Unless otherwise agreed, the energy and maintenance costs shall be shared by the city and department in proportion to the number of luminaires in each jurisdiction as established by the corporate line. When and if the corporate line is extended to include any part of the lighting installation or a greater proportion of luminaires, the proportionate costs for maintenance and energy shall be redetermined on the basis of the number of luminaires in each jurisdiction as established by the new location of the corporate line.

150.3(4) *Traffic signals.*

a. All traffic signal installations shall meet the standards and warrants established in the MUTCD.

b. On projects initiated by the department, the department may install, at no cost to the city, traffic signals warranted when replacing existing pavement or adding new lanes. In conjunction with these projects, the department may also participate in the cost of signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment.

c. When new pavement construction or additional lanes are not involved, the department may participate in the installation costs of new and modernized traffic signals or signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment; the city shall prepare plans, award the contract, supervise the installation, and be responsible for the remaining installation costs.

d. Modifications made to the traffic signal system to coordinate it with other city signal systems (not on the primary road extension system) shall be the sole financial responsibility of the city.

e. The department shall not participate in the cost of signals for commercial use only.

f. The department shall not participate in the signalization of primary road stub routes which terminate within the city.

g. The department shall not assume ownership and shall not be responsible for any energy or maintenance costs for traffic signals.

h. Signal phasing, initial and future, as well as timing and coordination between intersections shall be coordinated between the department and the city.

150.3(5) *Overdimensional and overweight vehicles.* The city shall comply with all current statutes, rules and regulations pertaining to overdimensional and overweight vehicles using primary roads when issuing special permits for overdimensional and overweight vehicles.

This rule is intended to implement Iowa Code sections 306.4, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5, 314.6 and 321E.2 and chapter 306A.

761—150.4(306) General requirements for primary road extensions.

150.4(1) *Signing.*

a. The department shall be responsible for permanent traffic control signing on primary road extensions.

b. The department shall not be responsible for construction and maintenance work zone signing unless the work is being done by the department.

c. The department shall not be responsible for street name signs, any regulatory parking signs which denote special regulations as may be determined by the city in cooperation with the department, and those signs which regulate parking as to time, hours and days of the week.

d. The department shall not be responsible for signs facing traffic on primary road extensions which regulate traffic movements on city cross streets (one-way traffic).

e. "Business District" signs on primary road extensions may be permitted upon application by the city to the department.

f. All signing within the right-of-way shall conform to the MUTCD.

150.4(2) *Encroachments or obstructions.*

a. The department shall expect the city to remove any existing encroachment or obstruction and prevent any further encroachment or obstruction within the right-of-way. This includes private signs within the right-of-way.

b. The department shall expect the city to prevent the erection on private property of any private sign, awning, marquee, etc., which will overhang the right-of-way and obstruct the view of any portion of the road or the traffic signs or traffic control devices located thereon in such a manner as to render it dangerous within the meaning of Iowa Code section 319.10.

c. No overhanging sign shall be permitted within two feet of the inside edge of the curb.

150.4(3) *Pedestrian, equestrian, and bicycle routes (sidewalks).*

a. The department shall remove and replace portions of existing routes as required by construction.

b. The department will consider the impacts to pedestrian accommodation at all stages of the project development process and encourage pedestrian accommodation efforts when pedestrian accommodation is impacted by highway construction. The cost of pedestrian accommodation made at the time of the highway improvement may be considered an additional roadway construction cost. Providing pedestrian accommodation independent of a highway construction project may be considered with construction funding obtained from local jurisdictions or other federal and non-road use tax state sources.

c. The department may participate in the cost of constructing curb ramps on existing sidewalks within the right-of-way of primary road extensions to meet the requirements of the Americans With Disabilities Act. If the department participates, the department's share of the construction cost shall be 55 percent; the city shall prepare plans, award the contract, supervise construction, and be responsible for the remaining construction cost. However, departmental participation shall not exceed $250,000 per year for any one city and $1.5 million per year in total.

150.4(4) *Overpasses and underpasses for pedestrian, equestrian, and bicycle routes.*

a. During initial construction of freeways and other relocated primary road extensions and when user-volumes and topographic conditions warrant the construction of a separation, the cost shall be shared between the department and the city on the basis of the current U-STEP cost apportionment.

b. The department may participate in a city-initiated separation as an unscheduled project.

150.4(5) *Utility relocation and removal.*

a. Except as otherwise provided by paragraph *"b"* of this subrule, the department shall expect the city to relocate or cause to be relocated, without cost to the department, all utilities necessary for construction when these utilities are within the existing street or alley right-of-way. The department shall reimburse the owner of a utility which is located on private right-of-way for the costs of relocation or removal, including the costs of installation in a new location.

b. Iowa Code section 306A.10 authorizes the department to pay the costs of relocation or removal, including the costs of installation in a new location, of utilities within existing street right-of-way when determined necessary for the construction of a project on routes of the national system of interstate and defense highways or resulting from interstate substitutions in a qualified metropolitan area. In accordance with Iowa Code section 306A.12, no reimbursement shall be made for any relocation or removal of facilities unless funds to be provided by federal aid amount to at least 85 percent of each reimbursement payment.

c. The department shall expect the city to comply with the utility accommodation policy of the department, as adopted in 761—Chapter 115.

d. The term "utility" shall be as defined in Iowa Code section 306A.13.

150.4(6) *Project concept statements and predesign project agreements for proposed construction projects.*

a. As early as possible after an urban project is included in the department's "Five-Year Construction Program," a concept statement for the project shall be developed and shall be reviewed with the officials of the city prior to the public hearing.

b. During the design process, a predesign project agreement may be submitted to city officials for their approval. It shall include:

(1) A preliminary description of the project,

(2) The general concepts of the project,

(3) Responsibilities for right-of-way acquisition, storm sewer costs and utility adjustment costs,

(4) The parking and access control restrictions to be applied to the project, and

(5) Financial participation above minimum standards.

150.4(7) *Preconstruction project agreements for proposed construction projects.*

a. The department shall maintain a close liaison with the city during the development of the project plan so that all parties will be fully informed of the details involved in the proposed improvement.

b. When the plan is sufficiently complete to provide typical cross sections, plan and profile drawings and incidental details, the department shall submit a preconstruction project agreement, which shall include known design data, to city officials for their approval. Terms for reimbursement to the state and local financial participation shall be stated in this agreement.

c. Modifications to this agreement necessitated by design changes encountered during construction shall be made by extra work order agreed to in writing by the city, the contractor, and the department.

150.4(8) *Reverting primary road extensions.* Rescinded IAB 10/2/02, effective 11/6/02.

This rule is intended to implement Iowa Code sections 306.4, 313.21 to 313.24, 313.27, 313.36, 314.5 and 314.6, and chapters 306A and 319.

[Filed 7/1/75]

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[Filed 9/10/02, Notice 7/10/02—published 10/2/02, effective 11/6/02]

761—511.6(321E) Insurance and bonds.

511.6(1) *Insurance.*

a. Public liability insurance in the amounts of $100,000 bodily injury each person, $200,000 bodily injury each occurrence, and $50,000 property damage with an expiration date to cover the tenure of the annual, annual oversize/overweight, all-systems, multitrip or single-trip permit shall be required. In lieu of filing with the permit-issuing authority, a copy of the current certificate of public liability insurance in these amounts shall be carried in the vehicle for which the permit has been issued.

b. Notwithstanding paragraph *"a"* of this subrule, a carrier may act as a self-insurer if an application for self-insurance is filed with and approved by the department.

511.6(2) *Bond.*

a. The permit-issuing authority may require the applicant to file a bond, certified check or other assurance in an amount sufficient to cover the reasonably anticipated cost of damage or loss to private property, either real or personal, likely to be caused by or arising out of the movement of the vehicle and load or to ensure compliance with permit provisions.

b. The amount in the preceding paragraph may be reduced either in whole or in part by the applicant's submission to the permit-issuing authority of written permission from an affected third party stating in substance that the third party either owns or has the right of exclusive possession and control over the affected property, does by the party's signature consent to the move and that the applicant has in hand paid or secured the payment of the anticipated cost of loss or damage to the party's property.

This rule is intended to implement Iowa Code section 321E.13.

761—511.7(321,321E) Annual permits. Annual permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. Annual permits are issued for the following:

511.7(1) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 12 feet 5 inches including appurtenances.

b. *Length.* 120 feet 0 inches overall.

c. *Height.* 13 feet 10 inches.

d. *Weight.* See rule 511.12(321,321E).

e. *Distance.* Movement is allowed for unlimited distance; routing through the office of motor carrier services is not required.

511.7(2) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 14 feet 6 inches.

b. *Length.* 120 feet 0 inches overall.

c. *Height.* 15 feet 5 inches.

d. *Weight.* See rule 511.12(321,321E).

e. *Distance.* Movement is restricted to 50 miles unless trip routes are obtained from the office of motor carrier services or the route continues on at least four-lane roads. Trip routes are valid for five days.

511.7(3) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 16 feet 0 inches.

b. *Length.* 120 feet 0 inches.

c. *Height.* 15 feet 5 inches.

d. *Weight.* See rule 761—511.12(321,321E).

e. *Distance.* Trip routes must be obtained from the office of motor carrier services.

511.7(4) Rescinded IAB 1/23/02, effective 2/27/02.

511.7(5) Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

a. Width. Not to exceed 10 feet 0 inches.

b. Length. Overall combination length must comply with Iowa Code section 321.457.

c. Height. Statutory: Not to exceed 13 feet 6 inches.

d. Weight. See rule 511.12(321,321E).

e. Speed. Rescinded IAB 2/7/01, effective 3/14/01.

f. Roadway width. At least 24 feet 0 inches.

g. Limited movement. Movement shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and shall be on the most direct route necessary for the movement.

511.7(6) Vehicles with divisible loads of hay, straw or stover provided the following are not exceeded:

a. Width. 12 feet 5 inches.

b. Length. Must comply with Iowa Code section 321.457.

c. Height. Statutory: 13 feet 6 inches.

d. Weight. See rule 511.12(321,321E).

e. Distance. Unlimited.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.10, 321E.28, 321E.29 and 321E.29A and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.

761—511.8(321,321E) Annual oversize/overweight permits. Annual oversize/overweight permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. Travel is not allowed on the interstate. However, a carrier moving under this annual oversize/overweight permit may operate under the same restrictions as an annual permit under rule 511.7(321,321E) when the vehicle meets the dimensions required by that rule. Routing is subject to embargoed bridges and roads and posted speed limits. Annual oversize/overweight permits are issued for the following:

511.8(1) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 13 feet 5 inches.

b. Length. 120 feet 0 inches.

c. Height. 15 feet 5 inches.

d. Weight. See rule 511.12(321,321E).

e. Routing. The owner or operator shall select a route using a vertical clearance map, kip map, bridge embargo map and detour and road embargo map provided by the department. The owner or operator shall contact the department by telephone at 1-800-925-6469 between 8 a.m. and 4 p.m., Monday through Thursday, except for legal holidays or at any other time at (515)237-3206 prior to making the move to verify that the owner or operator is using the most recent information.

511.8(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.28 and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.

761—511.9(321,321E) All-systems permits. All-systems permits are issued by the office of motor carrier services for indivisible vehicles or indivisible loads for travel on the primary road system and specified city streets and county roads when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The office of motor carrier services will provide a list of the authorized city streets and county roads. These permits are issued for the following:

511.9(1) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 12 feet 5 inches including appurtenances.

b. Length. 120 feet 0 inches overall.

c. Height. 13 feet 10 inches.

d. Weight. See rule 511.12(321,321E).

e. Distance. Movement is allowed for unlimited distance; routing through the office of motor carrier services and city and county jurisdictions is not required.

511.9(2) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 14 feet 6 inches.

b. Length. 120 feet 0 inches overall.

c. Height. 15 feet 5 inches.

d. Weight. See rule 511.12(321,321E).

e. Distance. Movement is restricted to 50 miles unless trip routes are obtained from the office of motor carrier services and city and county jurisdictions or the route continues on at least four-lane roads. Trip routes are valid for five days.

511.9(3) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 16 feet 0 inches.

b. Length. 120 feet 0 inches.

c. Height. 15 feet 5 inches.

d. Weight. See rule 511.12(321,321E).

e. Distance. Trip routes must be obtained from the office of motor carrier services and city and county jurisdictions.

511.9(4) Rescinded IAB 1/23/02, effective 2/27/02.

511.9(5) Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

a. Width. Not to exceed 10 feet 0 inches.

b. Length. Overall combination length must comply with Iowa Code section 321.457.

c. Height. Statutory: Not to exceed 13 feet 6 inches.

d. Weight. See rule 511.12(321,321E).

e. Speed. Rescinded IAB 2/7/01, effective 3/14/01.

f. Roadway width. At least 24 feet 0 inches.

g. Limited movement. Movement shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and shall be on the most direct route necessary for the movement.

511.9(6) Vehicles with divisible loads of hay, straw or stover provided the following are not exceeded:

a. Width. 12 feet 5 inches.

b. Length. Must comply with Iowa Code section 321.457.

c. Height. Statutory: 13 feet 6 inches.

d. Weight. See rule 511.12(321,321E).

e. Distance. Movement is allowed for unlimited distance; routing through the office of motor carrier services and city and county jurisdictions is not required.

511.9(7) Necessary trip routes must be obtained from the appropriate city and county jurisdictions.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.10, 321E.28 and 321E.29 and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.

761—511.10(321,321E) Multitrip permits. Multitrip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit shall be for specific routes between points of origin and destination. Multitrip permits are issued for the following:

511.10(1) Multitrip permits may be issued for vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 16 feet.

b. Length. 120 feet.

c. Height. Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be required to contact affected public utilities when the height of the vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written verification may be required from the affected utility.

d. Weight. 156,000 pounds total gross weight.

e. Distance. On routes specified by the permit-issuing authority.

511.10(2) Multitrip permits may be issued for all movements allowed under the single-trip permit provisions of rule 511.11(321,321E) provided the movement is within the size and weight limitations of subrule 511.10(1).

511.10(3) The dimensions listed on the permit are considered maximums. The movement is legal as long as the vehicle and load do not exceed these dimensions and the movement meets all other requirements of Iowa Code chapter 321E and this chapter of rules.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.9A and 321E.28.

761—511.11(321,321E) Single-trip permits. Single-trip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit shall be for a specific route between an origin and destination. Single-trip permits are issued for the following:

511.11(1) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 14 feet 0 inches.

b. Length. 80 feet 0 inches overall.

c. Height. Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be required to contact affected public utilities when the height of the vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written verification may be required from the affected utility.

d. Weight. See rule 511.12(321,321E).

e. Distance. Unlimited distance over specified routes.

511.11(2) Rescinded IAB 4/28/93, effective 6/2/93.

511.11(3) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 40 feet 0 inches overall.

b. Length. 120 feet 0 inches overall.

c. Height. Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be required to contact affected public utilities when the height of the vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written verification may be required from the affected utility.

d. Weight. See rule 511.12(321,321E).

e. Distance. Limited at the discretion of the permit-issuing authority. The following factors shall be considered:

Road conditions; road width; traffic volume; weather conditions; and roadside obstructions, including bridges, signs and overhead obstructions.

511.11(4) Vehicles especially designed for the movement of grain bins and vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. Must comply with Iowa Code section 321.454.

b. Length. 120 feet 0 inches overall.

c. Height. Statutory: 13 feet 6 inches.

d. Weight. See rule 511.12(321,321E).

e. Distance. Unlimited distance over specified routes.

511.11(5) Vehicles with divisible loads of hay, straw or stover provided the following are not exceeded:

a. Width. 12 feet 5 inches.

b. Length. Must comply with Iowa Code section 321.457.

c. Height. Statutory: 13 feet 6 inches.

d. Weight. See rule 511.12(321,321E).

e. Distance. Unlimited.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.9, 321E.28 and 321E.29.

761—511.12(321,321E) Maximum axle weights and maximum gross weights for vehicles and loads moved under permit.

511.12(1) *Annual and all-systems permits.*

a. For movement under an annual or all-systems permit, the axle weight and combined gross weight shall not exceed the limits found in Iowa Code section 321.463.

b. See subrule 511.12(5) for exceptions for construction machinery.

511.12(2) *Annual oversize/overweight permits.*

a. For movement under an annual oversize/overweight permit, the gross weight on any axle shall not exceed 20,000 pounds, with a maximum of 156,000 pounds total gross weight.

b. See subrule 511.12(5) for exceptions for construction machinery.

511.12(3) *Multitrip permits.*

a. For movement under a multitrip permit, the gross weight on any axle shall not exceed 20,000 pounds with a maximum of 156,000 pounds total gross weight.

b. See subrule 511.12(5) for exceptions for construction machinery.

511.12(4) *Single-trip permits.*

a. For movement under a single-trip permit, the gross weight on any axle shall not exceed 20,000 pounds.

b. If the combined gross weight exceeds 100,000 pounds, a single-trip permit may be issued for the movement only if the permit-issuing authority determines that it would not cause undue damage to the road and is in the best interest of the public.

c. Cranes may have a maximum of 24,000 pounds per axle for movement under a single-trip permit. Routes must be reviewed by the permit-issuing authority prior to issuance.

d. See subrule 511.12(5) for exceptions for construction machinery.

511.12(5) *Construction machinery.* Construction machinery may have a gross weight of 36,000 pounds on any single axle equipped with minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 80,000 pounds for movement under an annual or all-systems permit and 126,000 pounds for movement under a single-trip, multitrip or annual oversize/overweight permit.

For tire sizes and weights allowed between the maximum and minimum indicated, the following formula shall apply: Axle weight = 20,000 pounds + (tire width - 18) × 1,882 pounds.

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.9, 321E.9A and 321E.32 and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate file 2192, section 36.

761—511.13(321,321E) Movement of vehicles with divisible loads exceeding statutory size or weight limits.

511.13(1) Vehicles with divisible loads exceeding statutory size or weight limits may be moved under a single-trip permit if the permit-issuing authority determines that a special or emergency situation warrants its issuance.

511.13(2) At the discretion of the permit-issuing authority, the combined gross weight may exceed the statutory weight, but the axle weights shall be subject to rule 511.12(321,321E).

511.13(3) Movement shall be subject to the routes established by the permit-issuing authority.

511.13(4) This rule does not apply to divisible loads of hay, straw or stover.

This rule is intended to implement Iowa Code sections 321.463 and 321E.29.

761—511.14(321E) Towing units. The towing unit shall be a truck or truck tractor with dual wheels and with a gross vehicle weight rating of at least 10,000 pounds when towing mobile homes or loads exceeding 10,000 pounds.

This rule is intended to implement Iowa Code section 321.457.

761—511.15(321E) Escorting.

511.15(1) *Escort qualification.* An escort shall be a person aged 18 or over who possesses a Class A, B, C or D driver's license which allows driving unaccompanied, has a properly equipped vehicle, and who carries proof of public liability insurance in the amounts of $100,000/$200,000/$50,000.

511.15(2) *Escorting responsibilities.*

a. The escorting vehicle shall be a mid-size automobile or motor truck with sufficient mobility to be able to assist in an emergency and designed to afford clear and unobstructed vision both front and rear. In questionable cases the permit-issuing authority shall determine if a vehicle meets these conditions.

b. The escorting vehicle shall have an amber revolving light at least 7 inches high and 7 inches in diameter with at least a 100-candlepower lamp providing 360° warning. A light of smaller dimensions shall not be permitted unless a strobe light is used. While escorting a permit load, the revolving light shall be mounted on top of the escort vehicle and shall be burning. Additional escort vehicle markings may be approved or required by the permit-issuing authority.

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CHAPTER 512
Reserved

*Effective date of 511.2(1), 511.4(1)"*a*," 511.4(2)"*a*" and "*b*," 511.5(1), 511.5(6)"*b*"(3), 511.7, 511.8, 511.9(1) to 511.9(5), 511.14(2)"*g*" and "*i*," 511.14(3)"*e*," delayed 70 days by the Administrative Rules Review Committee at its meeting held May 12, 1993; delay lifted by this Committee June 8, 1993, effective June 9, 1993.

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*Rules 645—chs 6–18 apply to all professional licensure boards