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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

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

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UPDATING INSTRUCTIONS

August 31, 2005, Biweekly Supplement

[Previous Supplement dated 8/17/05]

	Remove Old Pages*	Insert New Pages
Engineering and Land Surveying Examining Board[193C]	Ch 6, p. 1—Ch 6, p. 3	Ch 6, p. 1—Ch 6, p. 3
Iowa Finance Authority[265]	Ch 3, p. 1—Ch 3, p. 6 Ch 12, p. 1	Ch 3, p. 1—Ch 3, p. 6 Ch 12, p. 1
EDUCATION DEPARTMENT[281]	Ch 11, p. 1—Ch 11, p. 3	Ch 11, p. 1—Ch 11, p. 3
HUMAN SERVICES DEPARTMENT[441]	Analysis, p. 5, 6 Ch 7, p. 1, 2 Ch 7, p. 23 Ch 9, p. 39—Ch 9, p. 41 Ch 41, p. 9—Ch 41, p. 14 Ch 41, p. 31, 32 Ch 41, p. 51—Ch 45, p. 2 Ch 60, p. 3, 4 Ch 60, p. 7, 8 Ch 93, p. 13, 14 Ch 93, p. 17, 18 Ch 93, 45, 46	Analysis, p. 5, 6 Ch 7, p. 1, 2 Ch 7, p. 23, 24 Ch 9, p. 39—Ch 9, p. 41 Ch 41, p. 9—Ch 41, p. 14 Ch 41, p. 31, 32 Ch 41, p. 51—Ch 45, p. 2 Ch 60, p. 3, 4 Ch 60, p. 7, 8 Ch 93, p. 13, 14 Ch 93, p. 17, 18 Ch 93, 45, 46
IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]	Ch 32, p. 1, 2	Ch 32, p. 1, 2

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

	Remove Old Pages*	Insert New Pages
Natural Resource Commission[571]	Analysis, p. 7, 8 Analysis, p. 11, 12 Ch 40, p. 9, 10 Ch 91, p. 1—Ch 91, p. 8 Ch 102, p. 1, 2	Analysis, p. 7, 8 Analysis, p. 11, 12 Ch 40, p. 9, 10 Ch 91, p. 1—Ch 91, p. 8 Ch 102, p. 1, 2
Professional Licensure Division[645]	Analysis, p. 3—Analysis, p. 8 Analysis, p. 13—Analysis, p. 16 Ch 60, p. p. 1—Ch 60, p. 9 Ch 62, p. 1, 2 Ch 64, p. 1—Ch 64, p. 7 Ch 65, p. 3—Ch 65, p. 6 Ch 121, p. 1—Ch 122, p. 6 Ch 124, p. 3—Ch 125, p. 1 Ch 240, p. 1—Ch 241, p. 5 Ch 242, p. 3—Ch 243, p. 1 Ch 280, p. 1—Ch 281, p. 7 Ch 283, p. 3—Ch 284, p. 1	Analysis, p. 3—Analysis, p. 8 Analysis, p. 13—Analysis, p. 16 Ch 60, p. p. 1—Ch 60, p. 9 Ch 62, p. 1, 2 Ch 64, p. 1—Ch 64, p. 5 Ch 65, p. 3—Ch 65, p. 6 Ch 121, p. 1—Ch 122, p. 3 Ch 124, p. 3—Ch 125, p. 1 Ch 240, p. 1—Ch 241, p. 4 Ch 242, p. 3—Ch 243, p. 1 Ch 280, p. 1—Ch 281, p. 5 Ch 283, p. 3—Ch 284, p. 1
Pharmacy Examiners Board[657]	Ch 10, p. 13, 14 Ch 10, p. 19	Ch 10, p. 13, 14 Ch 10, p. 19
Index Volume	“L” Tab, p. 13-39	“L” Tab, p. 13-40

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

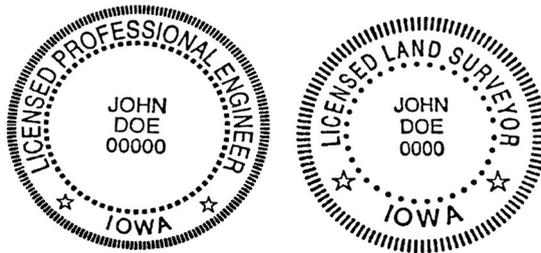
CHAPTER 6
SEAL AND CERTIFICATE OF RESPONSIBILITY

[Prior to 11/14/01, see 193C—1.30(542B)]

193C—6.1(542B) Seal and certificate of responsibility.

6.1(1) Each licensee shall procure a seal with which to identify all engineering and land surveying documents issued by the licensee for use in Iowa as provided in Iowa Code section 542B.16.

6.1(2) Description of seal. The seal shall include: the name of the licensee, the Iowa license number, the word “Iowa” and the words “Professional Engineer” or “Land Surveyor” or “Professional Engineer and Land Surveyor,” as appropriate. The word “licensed” may be added but is not required on the seal. The word “professional” may be added but is not required on the land surveyor seal. Neither the word “registrant” nor “registered” shall be used on the seal. The seal shall substantially conform to the samples shown below:



6.1(3) A legible rubber stamp or other facsimile of the seal may be used.

6.1(4) Each engineering or land surveying document submitted to a client or any public agency, hereinafter referred to as the official copy (or official copies), shall contain an information block on the first page or attached cover sheet for application of a seal by the licensee in responsible charge and an information block for application of a seal by each professional consultant contributing to the submission. In lieu of each contributing professional consultant providing an information block on the front page or attached cover sheet for application of a seal, a table shall be provided that identifies the contributing professionals and where their respective information blocks can be found within the document. The seal and original signature shall be applied only to a final submission. Each official copy (or official copies) of a submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the submission. Each certification block shall display the seal of the licensee and shall designate the portion of the submission for which that licensee is responsible, so that responsibility for the entire submission is clearly established by the combination of the stated seal responsibilities. Any nonfinal submission of an engineering or land surveying document to a client or public agency shall be clearly labeled “preliminary” or “draft.”

The engineering certification block shall conform to the wording in the sample shown below:

SEAL	I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.

	(signature) (date)
	Printed or typed name
	License number _____
	My license renewal date is December 31, _____.
Pages or sheets covered by this seal:	

The land surveying certification block shall conform to the wording in the sample shown below. For maps or acquisition plats prepared from public records or previous measurements by others, the following land surveying certification block may be modified by removing the phrase “and the related survey work was performed.”

SEAL	I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

	(signature) (date)
	Printed or typed name
	License number _____
	My license renewal date is December 31, _____.
Pages or sheets covered by this seal:	

6.1(5) The information requested in each certification block must be typed or legibly printed in permanent ink except for the signature and date of signature, which shall be an original signature and handwritten date in contrasting ink color on each official copy. The seal implies responsibility for the entire submission unless the area of responsibility is clearly identified in the information accompanying the seal.

6.1(6) It shall be the responsibility of the licensee to forward copies of all revisions to the submission, which shall become a part of the official copy of the submission. Such revisions shall be identified as applicable on a certification block or blocks with professional seals applied so as to clearly establish professional responsibility for the revisions.

6.1(7) The licensee is responsible for the custody and proper use of the seal. Improper use of the seal shall be grounds for disciplinary action.

6.1(8) Computer-generated seals may be used on final original documents.

6.1(9) Digital signatures. A digital signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule.

This rule is intended to implement Iowa Code sections 542B.13, 542B.15, 542B.20 and 542B.30.

[Filed 10/24/01, Notice 8/8/01—published 11/14/01, effective 1/1/02]

[Filed 11/21/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]

[Filed 8/12/05, Notice 2/16/05—published 8/31/05, effective 10/5/05]

CHAPTER 3
MULTIFAMILY HOUSING

DIVISION I
MULTIFAMILY LOAN PROGRAM

265—3.1(16) Purpose. Through its multifamily loan program (program), the authority seeks to preserve the existing supply of affordable rental units at risk of being lost and to foster the production of new affordable rental units in the state.

265—3.2(16) Available funds. The authority anticipates that it will, from time to time, publicize the approximate amount of funds available under this program on the authority's Web site at www.ifahome.com.

265—3.3(16) Intent of the authority. It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this program, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of loans and grants under this program. It is the position of the authority that such discretion and flexibility are essential to structuring transactions that will work to foster affordable housing in the state in a manner that best serves the citizens of the state.

265—3.4(16) Application procedure. Applications for assistance under this program must be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority's Web site as contacts for this program. Once contacted with an inquiry, the authority will send an application package to the potential applicant. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to foster affordable housing in the state.

265—3.5(16) Program guidelines. For-profit and nonprofit sponsors are eligible to apply for assistance under this program. There are three categories of loans under this program: preservation of affordable housing, low-income housing tax credits, and substantial rehabilitation of nonrestricted projects.

3.5(1) Projects eligible for assistance must meet the following criteria, in addition to any specific requirements applicable to a particular category of loan as set forth in rule 265—3.6(16), 265—3.7(16), or 265—3.8(16), as applicable:

a. Both a demonstrated market need for the units must exist and the project must be in a good location, as determined by the authority in its sole discretion.

b. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the assistance.

c. Maintenance and debt service reserve funds must be adequately funded, as determined by the authority in its sole discretion.

d. The maximum loan term is 24 months for construction financing and 30 years for permanent financing.

e. The required debt service is 1.25 to 1. Loan-to-value ratio will be considered. The authority may, in limited cases, change the required debt service ratio. Such decision will be made in the sole discretion of the authority.

f. Interest rates will be set by the authority, in its sole discretion.

g. Loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.

h. Construction financing may be awarded to projects under the program.

i. Borrowers must covenant to observe certain compliance measures, including a recorded agreement to ensure long-term affordability.

j. A title guaranty certificate from the authority's title guaranty division is required on all loans, unless specifically waived by the authority.

k. A local contributing effort in an amount of at least 1 percent of the proposed loan is required for loans made under division I of this chapter, and evidence of the local contributing effort shall be presented to the authority.

l. The authority may require a change of management or general partner and may refer applicants to other financing options, such as tax-exempt bonds or tax credits, when appropriate.

m. FHA-insured loans may be available through the Multifamily Accelerated Processing (MAP) of HUD, if the authority is an approved MAP lender at the time of the loan closing. The authority may require or suggest such a MAP loan for any and all projects applying for assistance. In addition, the authority may participate in the HUD Risk-Sharing Program and may suggest or require such a loan for any and all projects applying for assistance.

n. Grant funds may be available, in the sole discretion of the authority, if the authority determines that such funds are necessary for the continued financial viability of the project.

o. Recipients must execute such documents and instruments, and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

3.5(2) Loan fees are as follows:

a. Commitment fee (construction period) - 1.0 percent of total development costs.

b. Commitment fee (permanent loan) - 2.0 percent of loan amount.

c. Inspection fee - 0.5 percent of loan amount.

d. Application fee - 0.3 percent of proposed loan amount.

The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

265—3.6(16) Multifamily loan program for preservation of affordable housing. Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

1. Projects must have been developed using at least one of the following: low-income housing tax credits (LIHTC); state or local HOME funding; tax-exempt bonds; a HUD or USDA Rural Development program (i.e., Section 515); authority HAF funds; or funds of the former Iowa housing corporation (IHC).

2. Units must at a minimum be affordable to tenants with incomes at or below 80 percent of area median income (AMI), and, in most cases, must be affordable to tenants with incomes at or below 50 percent AMI. Mixed income projects will be considered.

3. Projects must have at least five units.

265—3.7(16) Multifamily loan program for low-income housing tax credits. Projects allocated either 4 percent or 9 percent tax credits that have not yet started construction or have not obtained permanent financing are eligible for loans under this category.

265—3.8(16) Multifamily loan program for substantial rehabilitation of nonrestricted projects. Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

1. Projects that currently have no affordability restrictions (e.g., Section 8 project based, USDA 515, LIHTC) are eligible for assistance.
2. Projects must need and sponsors must agree to complete rehabilitation of at least \$6,000 per unit in hard construction costs.
3. Sponsors must agree that at least 40 percent of the units shall have rents at or below the applicable area FMR (fair market rents as determined by HUD).
4. Projects must have at least five units.

265—3.9(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project, and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that because of the complex nature of each transaction, and the particular sets of circumstances attributable to each particular application/transaction, that the terms and conditions of loans will vary from project to project. The authority will make available its general operating procedures and guidelines for this program, as such may be revised from time to time.

265—3.10(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—3.11(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and to, accordingly, not advance any funds for such project.

265—3.12 to 3.19 Reserved.

DIVISION II
PREDEVELOPMENT LOAN FUND

265—3.20(16) Purpose. Through its predevelopment loan fund (fund), the authority seeks to expand the ability of organizations to utilize the authority's multifamily loan program (program) by offering low-cost predevelopment loans for which reasonable financing through traditional lenders or other government financing is not readily available.

265—3.21(16) Available funds. The authority will publicize the approximate amount of funds available under this fund on the authority's Web site at www.ifahome.com.

265—3.22(16) Intent of the authority. It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this fund, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of loans under this fund.

265—3.23(16) Application procedure. Applications for assistance under this fund must be made on forms and in the manner provided by the authority. Inquiries with respect to this fund should be made to those persons identified on the authority's Web site as contacts for the program and the fund. Once contacted with an inquiry, the authority will send an application package to the potential applicant. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to foster affordable housing in the state.

265—3.24(16) Fund guidelines. Any sponsor is eligible to apply for assistance from the fund relating to a specific project provided that the sponsor applies for a multifamily loan under the program for the same project.

3.24(1) Loans may be made to sponsors only with respect to projects that meet the criteria detailed in subrule 3.5(1).

3.24(2) The following types of activities and costs, to the extent approved by the authority, are eligible for assistance: architect services, engineering services, attorney's fees, accounting fees, environmental consultants and reports, finance and development consultants, tax credit consultants, market studies, survey fees, appraisal costs, and such other similar activities as may be determined by the authority from time to time to fall within the guidelines and purposes established for loans under the fund.

3.24(3) Assistance will be provided upon the following terms and conditions:

- a. Generally, the minimum loan amount is \$2,500, and the maximum loan amount is \$25,000.
- b. The loan will be due on the earlier of (1) 12 months from the date it is issued or (2) the closing of the authority's first mortgage loan for the project under the program. The authority may extend the loan term as it deems necessary.
- c. Principal and interest payments will be due at loan maturity and may be paid from the proceeds of a loan under the program.
- d. Interest rates will be set by the authority, in its sole discretion.
- e. Recipients must execute such documents and instruments, and must provide such information, certificates and other items, as determined necessary by the authority, in its sole discretion, in connection with any assistance.

265—3.25(16) Authority analysis of applications. Authority staff will analyze each potential loan and will make recommendations for funding assistance to the board of directors of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this fund.

265—3.26(16) Discretion of authority board. The authority's board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—3.27(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and to, accordingly, not advance any funds for such project.

265—3.28 to 3.30 Reserved.

DIVISION III
GAP FINANCING FUND

265—3.31(16) Purpose. Through its gap financing fund (gap fund), the authority seeks to expand the ability of organizations to utilize the authority's multifamily loan program (program) by offering low-cost gap loans for which reasonable financing through traditional lenders or other government financing is not readily available.

265—3.32(16) Intent of the authority. It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this gap fund, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of loans under this gap fund.

265—3.33(16) Application procedure. Applications for assistance under this gap fund must be made on forms and in the manner provided by the authority. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve affordable housing in the state.

265—3.34(16) Fund guidelines. Any sponsor is eligible to apply for assistance from the gap fund relating to a specific project provided that the sponsor applies for a multifamily loan under the program for the same project.

3.34(1) Loans may be made to sponsors only with respect to projects that meet the criteria detailed in subrule 3.5(1).

3.34(2) The following types of activities and costs, to the extent approved by the authority, are eligible for assistance: acquisition costs, operating and replacement reserves, insurance, closing costs, and such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for loans under the gap fund.

3.34(3) Assistance will be provided upon the following terms and conditions:

a. The maximum loan amount cannot exceed 25 percent of the authority's first mortgage loan and second mortgage loan, if any, under the program.

b. The loan term shall not exceed 30 years.

c. Principal and interest payments shall be due monthly.

d. Interest rates will be set by the authority, in its sole discretion, as close to market as the financial capacity of the project will allow.

e. Loans shall be secured by a subordinate mortgage.

f. Recipients must execute such documents and instruments, and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

3.34(4) Loan fees are as follows:

a. Commitment fee - 1.0 percent of loan amount.

b. Origination fee - 2.0 percent of loan amount.

c. Inspection fee - 0.5 percent of loan amount.

d. Application fee - 0.3 percent of proposed loan amount.

The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

265—3.35(16) Authority analysis of applications. Authority staff will analyze each potential loan and will make recommendations for funding assistance to the board of directors of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this gap fund.

265—3.36(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—3.37(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and accordingly, not advance any funds for such project.

265—3.38 to 3.40 Reserved.

These rules are intended to implement Iowa Code sections 16.5(17), 16.18(1) and 16.18(2).

[Filed 10/11/02, Notice 8/7/02—published 10/30/02, effective 12/4/02]

[Filed 5/9/03, Notice 4/2/03—published 5/28/03, effective 7/2/03]

[Filed 10/8/04, Notice 9/1/04—published 10/27/04, effective 12/1/04]

[Filed 8/12/05, Notice 5/25/05—published 8/31/05, effective 10/5/05]

CHAPTER 12
LOW-INCOME HOUSING TAX CREDITS

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2006 Qualified Allocation Plan effective October 5, 2005, shall be the qualified allocation plan for the allocation of 2006 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.ifahome.com>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference IRC Section 42 and the regulations in effect as of October 5, 2005. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site. Copies are available upon request at no charge from the authority.

265—12.3(16) Compliance manual. The compliance manual for all low-income housing tax credit projects monitored by the authority for compliance with IRC Section 42, effective December 6, 2000, is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—12.4(16) Location of copies of the manual. The compliance manual can be reviewed and copied in its entirety on the authority's Web site at <http://www.ifahome.com>. Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of December 6, 2000. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

These rules are intended to implement Iowa Code section 16.52.

[Filed 6/23/88, Notice 12/30/87—published 7/13/88, effective 8/17/88]

[Filed 3/19/91, Notice 10/17/90—published 4/3/91, effective 5/8/91]

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[Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]

[Filed 8/12/05, Notice 6/22/05—published 8/31/05, effective 10/5/05]

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 11
UNSAFE SCHOOL CHOICE OPTION

281—11.1(PL107-110) Purpose. Under the federal No Child Left Behind Act of 2001, Section 9532, each state receiving federal funds is required to establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school or who becomes a victim of a violent criminal offense while in or on the grounds of a public elementary or secondary school that the student attends be allowed to attend a safe school within the district.

281—11.2(PL107-110) Definitions. For purposes of this chapter, the following definitions apply:

“*Department*” means the Iowa department of education.

“*Forcible felony*” means any crime defined in Iowa Code section 702.11. This includes felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree. Forcible felonies are not willful injury in violation of Iowa Code section 708.4, subsection 2; sexual abuse in the third degree committed between spouses; sexual abuse in violation of Iowa Code section 709.4, subsection 2, paragraph “c,” subparagraph (4); or sexual exploitation by a counselor or therapist in violation of Iowa Code section 709.15.

“*School*” means an attendance center within a school district.

“*School district*” means a public school district in Iowa.

“*School year*” means from July 1 until June 30 of the following year.

281—11.3(PL107-110) Whole school option. Any student attending a persistently dangerous school as defined in this rule is eligible to transfer to a different school within the district. Transportation for students electing to transfer shall be provided according to the district’s transportation policy. The transfers may be temporary or permanent, but must be in effect as long as the student’s original school is identified as persistently dangerous.

In making the determination of whether a transfer should be temporary or permanent, the district shall consider the educational needs of the student, as well as other factors affecting the student’s ability to succeed in the student’s new school environment. The district is encouraged, but not required, to explore other appropriate options such as an agreement with a contiguous school district to accept students if there is no safe school within the transferring district.

11.3(1) A persistently dangerous school is one that meets the following criteria for three consecutive school years:

a. The school has violence-related, long-term suspensions or expulsions for more than 1 percent of the student population. Long-term suspensions or expulsions are more than ten days in length and require the action of the local school board. For purposes of this subrule, a violence-related, long-term suspension or expulsion occurs as a result of physical injury or the threat of physical injury to a student while the student is in the school building or on the grounds of the attendance center during the hours of the regular school day or while the student is in attendance at school-sponsored activities that occur during the hours before or after the regular school day under one of the following:

- (1) A forcible felony as defined in rule 281—11.2(PL107-110);
- (2) Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;

(3) Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;

(4) Extortion under Iowa Code section 711.4;

(5) Use of incendiary or explosive devices such as bombs under Iowa Code section 712.5;

(6) Criminal gang activity under Iowa Code chapter 723A;

(7) Carrying or using a weapon under Iowa Code sections 724.3 and 724.4.

b. The school has two or more students expelled for violating the federal gun-free school laws.

c. The school has 1 percent of the enrolled student population or five students, whichever is greater, who exercised the individual student option defined in rule 281—11.4(PL107-110).

11.3(2) For the school year starting July 1, 2003, and in the years thereafter, a school identified as meeting the criteria in 11.3(1) “a” through “c” for one year shall be given a warning by the department. The school shall review the school’s safety plan and prevention activities.

For the school year starting July 1, 2004, and in the years thereafter, a school identified as meeting the criteria in 11.3(1) “a” through “c” for two consecutive years shall develop and implement a remedial plan. The plan shall include schoolwide efforts to support positive student behavior and improve student discipline. The department shall conduct a site visit to the school.

For the school year starting July 1, 2005, and in the years thereafter, a school identified as meeting the criteria in 11.3(1) “a” through “c” for three consecutive years is eligible to be designated as a persistently dangerous school by the department. Prior to the department’s assigning the designation, the district may submit information to the department including:

a. The school’s safety plan;

b. Local efforts to address the school’s safety concerns;

c. The school safety data reported to the state consistent with requirements of the federal Safe and Drug-Free Schools and Communities Program;

d. More current data that the school may have available but has not yet reported; and

e. Any other information deemed relevant.

Within 30 days of receipt and review of the information, the department may determine that the school demonstrates improvement and may delay the designation for one year. By July 31, the department may, upon review of information that demonstrates improvement, delay the designation for one year. The department shall determine whether the district has made sufficient progress to warrant further consideration as a persistently dangerous school.

Upon designation, the district shall adopt a corrective action plan, which shall be approved by the department. The department shall monitor the district’s timely completion of the approved plan. The department shall annually assess the school using the criteria listed in 11.3(1) “a” through “c” by July 31 to determine whether the school shall remain identified as a persistently dangerous school for the following school year.

At minimum, a district that has one or more schools identified as persistently dangerous shall, within 14 days of the designation, notify parents of each student attending the school that the school has been identified by the department as persistently dangerous. The district must offer students the opportunity to transfer to a safe public school within the district; and for those students who accept the offer, the district shall complete the transfer. A district may deny the transfer if space at the requested school is unavailable. A district shall offer the parent other available options within the district, when available.

281—11.4(PL107-110) Individual student option. Any student who becomes a victim of a violent criminal offense shall, to the extent feasible, be permitted to transfer to another school within the district. For purposes of this rule, a victim of a violent criminal offense is a student who is physically injured or threatened with physical injury as a result of the commission of one or more of the following crimes against the student while the student is in the school building or on the grounds of the attendance center.

1. A forcible felony as define in rule 281—11.2(PL107-110);
2. Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;
3. Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;
4. Extortion under Iowa Code section 711.4.

Within ten calendar days following the date of the request, a local school district shall offer an opportunity to transfer to the parent/guardian of a student who meets the definition of a victim of a violent crime.

281—11.5(PL107-110) District reporting. For purposes of federal compliance, districts shall report data and requested information related to this chapter in a manner prescribed by the department.

These rules are intended to implement Public Law 107-110, 115 Stat. 1425.

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CHAPTERS 31 to 33	38.9(225C,217)	Contracts
Reserved	38.10	Reserved
CHAPTER 34	38.11(225C,217)	Reallocation of funds
ALTERNATIVE DIAGNOSTIC FACILITIES	38.12(225C,217)	Conflict of interest policy
34.1(225C) Definitions		
34.2(225C) Function		
34.3(225C) Standards		
CHAPTER 35		CHAPTER 39
Reserved		Reserved
CHAPTER 36		TITLE IV
FACILITY ASSESSMENTS		<i>FAMILY INVESTMENT PROGRAM</i>
DIVISION I		CHAPTER 40
ASSESSMENT FEE FOR INTERMEDIATE CARE		APPLICATION FOR AID
FACILITIES FOR THE MENTALLY RETARDED		DIVISION I
36.1(249A) Assessment of fee	40.1 to 40.20	Reserved
36.2(249A) Determination and payment of		DIVISION II
fee for facilities certified to		FAMILY INVESTMENT PROGRAM—
participate in the Medicaid		TREATMENT GROUP
program	40.21(239B) Definitions	
36.3(249A) Determination and payment of	40.22(239B) Application	
fee for facilities not certified	40.23(239B) Date of application	
to participate in the Medicaid	40.24(239B) Procedure with application	
program	40.25(239B) Time limit for decision	
36.4(249A) Termination of fee assessment	40.26(239B) Effective date of grant	
	40.27(239B) Continuing eligibility	
	40.28(239B) Referral for investigation	
CHAPTER 37		CHAPTER 41
Reserved		GRANTING ASSISTANCE
CHAPTER 38		DIVISION I
DEVELOPMENTAL DISABILITIES		Reserved
BASIC STATE GRANT		DIVISION II
38.1(225C,217) Definitions		FAMILY INVESTMENT PROGRAM—
38.2(225C,217) Program eligibility		TREATMENT GROUP
38.3(225C,217) Application under	41.1 to 41.20	
competitive process		41.21(239B) Eligibility factors specific to
38.4(225C,217) Competitive project awards		child
38.5(225C,217) Sole source or emergency		41.22(239B) Eligibility factors specific to
selection project awards		payee
38.6(225C,217) Field-initiated proposals		41.23(239B) Home, residence, citizenship, and
38.7(225C,217) Notification		alienage
38.8(225C,217) Request for reconsideration		41.24(239B) Promoting independence and
		self-sufficiency through
		employment job opportunities
		and basic skills (PROMISE
		JOBS) program

- 41.25(239B) Uncategorized factors of eligibility
- 41.26(239B) Resources
- 41.27(239B) Income
- 41.28(239B) Need standards
- 41.29(239B) Composite FIP/SSI cases
- 41.30(239B) Time limits
- CHAPTER 42
- Reserved
- CHAPTER 43
- ALTERNATE PAYEES
- DIVISION I
- 43.1 to 43.20 Reserved
- DIVISION II
- FAMILY INVESTMENT PROGRAM—
- TREATMENT GROUP
- 43.21(239B) Conservatorship or guardianship
- 43.22 and 43.23 Reserved
- 43.24(239B) Emergency payee

- CHAPTER 44
- Reserved

- CHAPTER 45
- PAYMENT
- DIVISION I
- 45.1 to 45.20 Reserved
- DIVISION II
- FAMILY INVESTMENT PROGRAM—
- TREATMENT GROUP
- 45.21(239B) Address
- 45.22(239B) Return
- 45.23(239B) Held warrants
- 45.24(239B) Underpayment
- 45.25(239B) Deceased payees
- 45.26(239B) Limitation on payment
- 45.27(239B) Rounding of need standard and payment amount
- CHAPTER 46
- OVERPAYMENT RECOVERY
- DIVISION I
- 46.1 to 46.20 Reserved
- DIVISION II
- FAMILY INVESTMENT PROGRAM—
- TREATMENT GROUP
- 46.21(239B) Definitions
- 46.22(239B) Monetary standards
- 46.23(239B) Notification and appeals
- 46.24(239B) Determination of overpayments
- 46.25(239B) Source of recoupment
- 46.26 Reserved
- 46.27(239B) Procedures for recoupment
- 46.28(239B) Intentional program violation
- 46.29(239B) Fraudulent misrepresentation of residence

CHAPTER 7
APPEALS AND HEARINGS

[Ch 7, July 1973 IDR Supplement, renumbered as Ch 81]
[Prior to 7/1/83, Social Services[770] Ch 7]
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

This chapter applies to contested case proceedings conducted by or on behalf of the department.

441—7.1(17A) Definitions.

“Administrative hearing” means a type of hearing that an appellant may elect in which the presiding officer reviews the written record only and makes a decision based on the facts available within the appeal file. An administrative hearing does not require an in-person or teleconference hearing. The final determination to establish whether an administrative hearing may be held will be made by the appeals section or the presiding officer.

“Administrative law judge” means an employee of the department of inspections and appeals who conducts appeal hearings.

“Agency” means the Iowa department of human services, including any of its local, institutional, or central administrative offices.

“Aggrieved person” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. For financial assistance (including the family investment program, refugee cash assistance, child care assistance, diversion, emergency assistance, family or community self-sufficiency grants, family investment program hardship exemptions, and state supplementary assistance dependent person, in-home health related care, and residential care facility benefits), a person:

- Whose request to be given an application was denied.
- Whose application for assistance has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a suspension, reduction, or cancellation of assistance.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

2. For food stamps, a person:

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a suspension, reduction, or cancellation of benefits.
- Whose request to replace benefits that were lost in the mail has been denied.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

3. For Medicaid, healthy and well kids in Iowa, and waiver services, a person (see numbered paragraph “7” for providers):

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Who has been notified that level of care requirements have not been met.
- Who has been aggrieved by a failure to take into account the appellant’s choice in assignment to a coverage group.
- Who contests the effective date of assistance, services, or premium payments.

- Who contests the amount of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, or the spend-down amount under the medically needy program.

- Who contests the amount of client participation.
- Whose claim for payment or prior authorization has been denied.
- Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
- Who has received notice from the Medicaid hotline that services not received or services for which an individual is being billed are not payable by Medicaid.
- Who has been notified that there will be a suspension, reduction, or cancellation of assistance or waiver services.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

4. For social services, including, but not limited to, adoption, foster care, rehabilitative treatment and supportive services, a person (see numbered paragraph “7” for providers):

- Whose request to be given an application was denied.
- Whose application for services or payment for adoption subsidy or foster care has been denied or has not been acted on in a timely manner.
- For whom it is determined that the person must participate in a service program.
- Whose social work case manager failed to make a referral to the review organization for the rehabilitative treatment services requested or who is dissatisfied with the necessity, amount, duration, or scope of services as authorized by the review organization. Providers and referral workers who are dissatisfied with the authorized amount, duration, or scope of rehabilitative treatment services shall not be considered aggrieved persons.
- Whose claim for payment of services has been denied.
- Who has been notified that there will be a suspension, reduction, or cancellation of services.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

- Who applies for an adoption subsidy after the adoption has been finalized.
- Who alleges that the adoptive placement of a child has been denied or delayed when an adoptive family is available outside the jurisdiction with responsibility for handling the child’s case.
- Who has not been referred to community care as provided in rule 441—186.2(234).
- Who has been referred to community care as provided in rule 441—186.2(234) and has exhausted the community care provider’s dispute resolution process.

5. For child support recovery, a person:

- Who is not entitled to a support payment in full or in part because of the date of collection, as provided under rule 441—95.13(17A), or whose dispute based on the date of collection has not been acted on in a timely manner.
- Who is contesting a claim or offset as provided in 441—subrule 95.6(3), 95.7(8), or 98.81(3) by alleging a mistake of fact. “Mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral or submission. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.
- Whose name has been certified for passport sanction as provided in Iowa Code section 252B.5.
- Who has been notified that there will be a termination in services as provided in rule 441—95.14(252B).

6. For PROMISE JOBS, a person:

- Whose claim for participation allowances has been denied, reduced, or canceled.
- Who claims that the contents of the family investment agreement are not sufficient or necessary for the family to reach self-sufficiency.

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(3) If, during the period covered by the accounting, the department has made multiple disclosures of protected health information to a person or organization requesting a disclosure, the accounting may, with respect to the multiple disclosures, provide:

1. The information required by subparagraph 9.14(5)“b”(2), for the first disclosure during the accounting period;
2. The frequency, periodicity, or number of the disclosures made during the accounting period; and
3. The date of the last disclosure during the accounting period.

c. *Time limits for providing the accounting.* The department shall act on the subject’s request for an accounting no later than 60 days after receipt of a request, as follows:

- (1) The department shall provide the subject with the accounting requested; or
- (2) If the department is unable to provide the accounting within these 60 days, the department may extend the due date one time, for a period not to exceed 30 days. In order to extend the due date, the department shall provide the subject with a written statement of the reasons for the delay and the date by which the department shall provide the accounting. The department shall provide this written statement within the 60-day period after receipt of the request for an accounting.

d. *Fee for accounting.* The department shall provide to a subject one accounting without charge in any 12-month period. The department may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same subject within the 12-month period, as set forth in subrule 9.3(7), provided that the department:

- (1) Informs the subject in advance of the fee; and
- (2) Provides the subject with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

e. *Suspension of right.* The department shall temporarily suspend a subject’s right to receive an accounting of disclosures made to a health oversight agency or law enforcement official, as permitted in this chapter, if the agency or official provides the department with a statement that the accounting would likely impede the agency’s activities and specifies the time for which a suspension is required.

(1) If the agency or official statement is submitted in writing, the department shall suspend the right to receive accounting for the time specified by the agency or official.

- (2) If the agency or official statement is made orally, the department shall:
 1. Document the statement, including the identity of the agency or official making the statement;
 2. Temporarily suspend the subject’s right to an accounting of disclosures subject to the statement; and

3. Limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless the agency or official statement is submitted in writing during that time.

9.14(6) *Complaint procedure.* A person who believes the department is not complying with the rules on protected health information or with the applicable requirements of 45 CFR Part 160 as amended to August 14, 2002, or with the applicable standards, requirements, and implementation specifications of 45 CFR of Subpart E of Part 164 as amended to August 14, 2002, may file a complaint with the department’s privacy office or with the Secretary of Health and Human Services.

a. Complaints to the department’s privacy office shall be in writing and may be delivered personally or by mail to the DHS Privacy Office, 1305 E. Walnut Street, First Floor, Des Moines, Iowa 50319-0114. Complaints regarding facilities may be sent to the applicable facility.

b. Complaints to the Secretary of Health and Human Services shall be made using the procedures set forth in 45 CFR 160.306 as amended to August 14, 2002.

9.14(7) Appeal rights.

a. If the subject disputes a decision by the privacy officer, the department's designated licensed health care professional, or the facility administrator on any of the following requests, the subject may appeal the decision in accordance with 441—Chapter 7.

- (1) A request for restriction on use or disclosure of protected health information.
- (2) A request for confidential communication of protected health information.
- (3) A request for access to protected health information.
- (4) A request to amend protected health information.
- (5) A request for accounting of disclosures.

b. The privacy officer or facility shall assist the subject in making the appeal, if needed.

c. Appeals shall be:

(1) Mailed to the Appeals Section, Fifth Floor, Iowa Department of Human Services, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114; or

(2) Submitted electronically at www.dhs.state.ia.us/appeals.asp.

9.14(8) Record retention. Notwithstanding any other department rule to the contrary, protected health information shall be retained for at least six years from the date of creation or the date when the information last was in effect, when required by 45 CFR 164.530, paragraph "j," as amended to August 14, 2002.

441—9.15(17A,22) Person who may exercise rights of the subject.

9.15(1) Adults. When the subject is an adult, including an emancipated minor, the subject's rights under this rule may also be exercised by the subject's legal or personal representative, except as provided in subrule 9.15(3).

9.15(2) Minors. Within the limits of subrule 9.15(3), when the subject is an unemancipated minor, the subject's rights under this rule shall be exercised only by the subject's legal representative, except as follows:

a. When the department otherwise deals with the minor as an adult, as in the case of minor parents under the family investment program.

b. When otherwise specifically provided by law. However, minor subjects shall be granted access to their own records upon request, subject to the limits in rule 441—9.9(17A,22).

9.15(3) Exceptions.

a. *Scope of authority.* Legal and personal representatives may act only within the scope of their authority. For protected health information, the designation must reflect the subject's ability to make health care decisions and receive protected health information. For example, court-appointed conservators shall have access to and authority to release only the following information:

- (1) Name and address of subject.
- (2) Amounts of assistance or type of services received.
- (3) Information about the economic circumstances of the subject.

b. *Mental health information.* Only an adult subject or a subject's legal representative may consent to the disclosure of mental health information. Records of involuntary hospitalization shall be released only as provided in Iowa Code section 229.24. Medical records of persons hospitalized under Iowa Code chapter 229 shall be released only as provided in Iowa Code section 229.25.

c. *Substance abuse information.* Only the subject may consent to the disclosure of substance abuse information, regardless of the subject's age or condition.

d. *Failure to act in good faith.* If the department has reason to believe that the legal or personal representative is not acting in good faith in the best interests of the subject, the department may refuse to release information on the authorization of the legal or personal representative.

e. Abuse, neglect, and endangerment situations. Notwithstanding a state law or any other requirement of this chapter, the department, in the exercise of professional judgment, may elect not to treat a person as a subject's personal representative if:

(1) The department has reason to believe that the subject has been or may be subjected to domestic violence, abuse, or neglect by the person; or

(2) The department has reason to believe that treating the person as a personal representative could endanger the subject.

f. Protected health information. A parent, guardian, or other person acting in place of a parent who does not represent the minor for protected health information may still access protected health information about the minor if required by law.

g. Deceased subjects. If, under applicable law, an executor, administrator, or other person has authority to act on behalf of a deceased subject or of the subject's estate, the department shall treat that person as a personal representative.

h. Other. If, under applicable law, the subject of a confidential record is precluded from having a copy of a record concerning the subject disclosed to a third party, the department shall not treat the third party as a personal representative.

These rules are intended to implement Iowa Code sections 17A.3, 22.11, 217.6 and 217.30, Iowa Code chapters 228 and 252G, and the Health Insurance Portability and Accountability Act of 1996.

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- (2) Physical or emotional harm shall include situations of documented abuse or incest.
- (3) When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the minor parent or child, the following shall be considered:
1. The present emotional state of the individual subject to emotional harm.
 2. The emotional health history of the individual subject to emotional harm.
 3. Intensity and probable duration of the emotional impairment.
 - c. The minor parent is in a foster care supervised apartment living arrangement.
 - d. The minor parent is participating in the job corps solo parent program.
 - e. The parents or legal guardian refuses to allow the minor parent and child to return home and the minor parent is living with a specified relative, aged 21 or over, on the day of interview, and the caretaker is the applicant or payee.
 - f. The minor parent and child live in a maternity home or other licensed adult-supervised supportive living arrangement as defined by the department of human services.
 - g. Other circumstances exist which indicate that living with the parents or legal guardian will defeat the goals of self-sufficiency and responsible parenting. Situations which appear to meet this good cause reason must be referred to the administrator of the division of economic assistance, or the administrator's designee, for determination of good cause.

41.22(17) *Claiming good cause for not living in the home of a parent or legal guardian.* Each applicant or recipient who is not living with a parent or legal guardian shall have the opportunity to claim good cause for not living with a parent or legal guardian.

41.22(18) *Determination of good cause for not living in the home of a parent or legal guardian.* The county office shall determine whether good cause exists for each applicant or recipient who claims good cause.

a. The applicant or recipient shall be notified by the county office of its determination that good cause does or does not exist. The determination shall:

- (1) Be in writing.
- (2) Contain the county office's findings and basis for determination.
- (3) Be entered in the family investment program case record.

b. When the county office determines that good cause does not exist:

- (1) The applicant or recipient shall be so notified.
- (2) The application shall be denied or family investment program assistance canceled.
- (3) Rescinded IAB 8/31/05, effective 11/1/05.

c. The county office shall:

- (1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.
- (2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements.

41.22(19) *Proof of good cause for not living in the home of a parent or legal guardian.* The applicant or recipient who claims good cause shall provide corroborative evidence to prove the good cause claim within the time frames described at 441—subrule 40.24(1) and paragraph 40.27(4)“c.”

a. A good cause claim may be corroborated by one or more of the following types of evidence:

- (1) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the parent or legal guardian might inflict physical or emotional harm on the minor parent or child.
- (2) Medical records that indicate the emotional health history and present emotional health status of the minor parent or child; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the minor parent or child.

(3) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim. Written statements from the client's friends or relatives are not sufficient alone to grant good cause based on physical or emotional harm, but may be used to support other evidence.

(4) Notarized statements from the parents or legal guardian or other reliable evidence to verify that the parents or legal guardian refuse to allow the minor parent and child to return home.

(5) Court, criminal, child protective services, social services or other records which verify that the parents or legal guardian of the minor parent is deceased, missing or living in another state, or that the minor parent is in a foster care supervised apartment living arrangement, the job corps solo parent program, maternity home or other licensed adult-supervised supportive living arrangement.

b. When after examining the corroborative evidence submitted by the applicant or recipient, the county office wishes to request additional corroborative evidence which is needed to permit a good cause determination, the county office shall:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed.

(2) Specify the type of document which is needed.

c. When the applicant or recipient requests assistance in securing evidence, the county office shall:

(1) Advise the applicant or recipient how to obtain the necessary documents.

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

This rule is intended to implement Iowa Code chapter 239B.

441—41.23(239B) Home, residence, citizenship, and alienage.

41.23(1) *Iowa residence.*

a. A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition the child is a resident of the state in which the caretaker is a resident.

b. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

41.23(2) *Suitability of home.* The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

41.23(3) *Absence from the home.*

a. An individual who is absent from the home shall not be included in the assistance unit, except as described in paragraph "b."

(1) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(2) A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

(3) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home, notwithstanding the provisions of subrule 41.22(5). "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. The needs of an individual who is temporarily out of the home are included in the eligible group, if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year will result in the individual's needs being removed from the grant.

(2) An individual is out of the home to secure education or training, as defined for children in 41.24(2) "e" and for adults in 441—subrule 93.114(1), first sentence, as long as the caretaker relative retains supervision of the child.

(3) An individual is out of the home for reasons other than reasons in subparagraphs (1) and (2) and the payee intends that the individual will return to the home within three months. Failure to return within three months will result in the individual's needs being removed from the grant.

41.23(4) Battered aliens. A person who meets the conditions of eligibility under Iowa Code section 239B.2 and who meets either of the following requirements shall be eligible for participation in the family investment program:

a. The person is a conditional resident alien who was battered or subjected to extreme cruelty, or whose child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident, as described in 8 CFR Section 216.5(a)(3).

b. The person was battered or subjected to extreme cruelty, or the person's child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident, and the person's petition has been approved or a petition is pending that sets forth a prima facie case that the person has noncitizen status under any of the following categories:

(1) Status as a spouse or child of a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, Section 204(a)(1)(A).

(2) Status as a spouse or child who was battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, Section 204(a)(iii), as codified in 8 United States Code Section 1154(a)(1)(A)(iii).

(3) Classification as a person lawfully admitted for permanent residence under the federal Immigration and Nationality Act.

(4) Suspension of deportation and adjustment of status under the federal Immigration and Nationality Act, Section 244(a), as in effect before the date of enactment of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(5) Cancellation of removal or adjustment of status under the federal Immigration and Nationality Act, Section 240A, as codified in 8 United States Code Section 1229b.

(6) Status as an asylee, if asylum is pending, under the federal Immigration and Nationality Act, Section 208, as codified in 8 United States Code Section 1158.

41.23(5) Citizenship and alienage.

a. A family investment program assistance grant may include the needs of a citizen or national of the United States, or a qualified alien as defined at 8 United States Code Section 1641.

(1) A person who is a qualified alien as defined at 8 United States Code Section 1641 is not eligible for family investment program assistance for five years. The five-year period of ineligibility begins on the date of the person's entry into the United States with a qualified alien status as defined at 8 United States Code Section 1641.

EXCEPTIONS: The five-year prohibition from family investment program assistance does not apply to battered aliens as described at 41.23(4), qualified aliens described in 8 United States Code Section 1612, or to qualified aliens as defined at 8 United States Code Section 1641 who entered the United States before August 22, 1996.

(2) A person who is not a United States citizen, a battered alien as described at 41.23(4), or a qualified alien as defined at 8 United States Code Section 1641 is not eligible for the family investment program regardless of the date the person entered the United States.

b. As a condition of eligibility each recipient shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the recipient's citizenship or alien status, when the statement has not previously been signed on the application. The form shall be signed by the recipient, or when the recipient is incompetent or incapacitated, someone acting responsibly on the recipient's behalf. When both parents are in the home, both shall sign the form. An adult recipient shall sign the form for dependent children. Failure to sign Form 470-2549 when required to do so creates ineligibility for the entire eligibility group.

This rule is intended to implement Iowa Code section 239B.2 and 2002 Iowa Acts, House File 2623, section 27.

441—41.24(239B) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program. An application for assistance constitutes a registration for the program for all members of the family investment program (FIP) case. Persons who are not exempt from referral to PROMISE JOBS shall enter into a family investment agreement (FIA) as a condition of receiving FIP, except as described at subrule 41.24(8).

41.24(1) Referral to PROMISE JOBS.

a. All persons whose needs are included in a grant under the FIP program shall be referred to PROMISE JOBS as FIA-responsible persons unless the county office determines the persons are exempt.

b. Any parent living in the home of a child receiving a grant shall also be referred to PROMISE JOBS as an FIA-responsible person unless the county office determines the person is exempt.

c. All applicants shall be referred to PROMISE JOBS as FIA-responsible persons unless the local office determines that the person is exempt or does not meet other FIP eligibility requirements.

d. Applicants who have chosen and are in a limited benefit plan that began on or after June 1, 1999, shall complete significant contact with or action in regard to PROMISE JOBS as described at paragraphs 41.24(8) "a" and "d" for FIP eligibility to be considered. For two-parent households, both parents must participate as previously stated except when one parent meets the exemption criteria described at subrule 41.24(2).

41.24(2) Exemptions. Except as specified at subrule 41.30(3), the following persons are exempt from referral:

a. and b. Rescinded IAB 12/3/97, effective 2/1/98.

c. A person who is under the age of 16 and is not a parent.

d. A person found eligible for supplemental security income (SSI) benefits based on disability or blindness.

e. A person who is aged 16 to 19, and is not a parent, who attends an elementary, secondary or equivalent level of vocational or technical school full-time. For persons who lose exempt status for not attending school and who are referred to PROMISE JOBS on or after November 1, 2005, once the person has signed a family investment agreement, the person shall remain referred to PROMISE JOBS and subject to the terms of the agreement.

(1) A person shall be considered to be attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

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

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

f. A person who is not a United States citizen and is not a qualified alien as defined in 8 United States Code Section 1641 or a battered alien as described at 41.23(4).

41.24(3) Parents aged 19 and under.

a. Unless exempt as described at subrule 41.24(2), parents aged 18 or 19 are referred to PROMISE JOBS as follows:

(1) A parent aged 18 or 19 who has not successfully completed a high school education (or its equivalent) shall be required to participate in educational activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in other PROMISE JOBS options if the person fails to make good progress in completing educational activities or if it is determined that participation in educational activities is inappropriate for the parent.

(3) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

b. Unless exempt as described at subrule 41.24(2), parents aged 17 or younger are referred to PROMISE JOBS as follows:

(1) A parent aged 17 or younger who has not successfully completed a high school education or its equivalent shall be required to participate in high school completion activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

41.24(4) Method of referral.

a. While the eligibility decision is pending, applicants in a limited benefit plan that began on or after June 1, 1999, shall receive a letter which contains information about the need to complete significant contact with or action in regard to the PROMISE JOBS program to be eligible for FIP assistance and the procedure for being referred to the PROMISE JOBS program.

b. While the eligibility decision is pending, applicants who must qualify for a hardship exemption before approval of FIP shall be treated in accordance with subrule 41.30(3).

c. Each person required to be referred to PROMISE JOBS as described at subrule 41.24(1) must meet with PROMISE JOBS staff and sign an FIA.

(1) For an applicant filing an application on or after September 1, 2004, the FIA must be signed before FIP approval, as a condition of eligibility. If a parent fails to sign an FIA, the entire family is ineligible for FIP. If a referred person who is not a parent fails to sign an FIA, only that person is ineligible.

(2) When a FIP participant loses exempt status, the FIP participant shall receive a letter which contains information about participant responsibility under PROMISE JOBS and the FIA and instructs the FIP participant to contact PROMISE JOBS within ten calendar days to schedule the PROMISE JOBS orientation.

41.24(5) Changes in status and redetermination of exempt status. Any exempt person shall report any change affecting the exempt status to the county office within ten days of the change. The county office shall reevaluate exempt persons when changes in status occur and at the time of six-month or annual review. The recipient and the PROMISE JOBS unit shall be notified of any change in a recipient's exempt status.

41.24(6) Volunteers. Rescinded IAB 7/21/04, effective 9/1/04.

41.24(7) Referral to vocational rehabilitation. The department shall make the department of education, division of vocational rehabilitation services, aware of any person who is referred to PROMISE JOBS and who has a medically determined physical or mental disability and a substantial employment limitation resulting from the disability. However, acceptance of vocational rehabilitation services by the client is optional.

41.24(8) The limited benefit plan (LBP). When a participant responsible for signing and meeting the terms of a family investment agreement as described at rule 441—93.109(239B) chooses not to sign or fulfill the terms of the agreement, the FIP assistance unit or the individual participant shall enter into a limited benefit plan. A limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued to the participant as defined at 441—subrule 7.7(1). Once the limited benefit plan is imposed, FIP eligibility no longer exists as of the first of the month after the month in which timely and adequate notice is given to the participant. Upon the issuance of the notice to impose a limited benefit plan, the person who chose the limited benefit plan can reconsider and end the limited benefit plan, but only as described at paragraph 41.24(8)“d.” A participant who is exempt from PROMISE JOBS is not subject to the limited benefit plan.

a. A limited benefit plan shall either be a first limited benefit plan or a subsequent limited benefit plan. From the effective date of the limited benefit plan, for a first limited benefit plan, the FIP household shall not be eligible until the participant who chose the limited benefit plan completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph “d.” If a subsequent limited benefit plan is chosen by the same participant, a six-month period of ineligibility applies and ineligibility continues after the six-month period is over until the participant who chose the LBP completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph “d.” A limited benefit plan imposed in error as described in paragraph “f” shall not be considered a limited benefit plan. A limited benefit plan is considered imposed when timely and adequate notice is issued establishing the limited benefit plan.

b. The limited benefit plan shall be applied to participants responsible for the family investment agreement and other members of the participant’s family as follows:

(1) When the participant responsible for the family investment agreement is a parent, the limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1).

(2) When the participant choosing a limited benefit plan is a needy specified relative or a dependent child’s stepparent who is in the FIP eligible group because of incapacity, the limited benefit plan shall apply only to the individual participant choosing the plan. EXCEPTION: The limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1) when a needy specified relative who assumes the role of parent was responsible for the family investment agreement and chose a limited benefit plan effective October 1, 2005, or earlier.

(3) When the FIP eligible group includes a minor parent living with the minor parent’s adult parent or needy specified relative who receives FIP benefits and both the minor parent and the adult parent or needy specified relative are responsible for developing a family investment agreement, each parent or needy specified relative is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

1. When the adult parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire eligible group, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for FIP benefits as a minor parent living with self-supporting parents or as a minor parent living independently and continue in the family investment agreement process.

2. When the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

3. When the minor parent is the only eligible child in the adult parent’s or needy specified relative’s home and the minor parent chooses the limited benefit plan, the adult parent’s or needy specified relative’s FIP eligibility ceases in accordance with subrule 41.28(1). The adult parent or needy specified relative shall become ineligible beginning with the effective date of the minor parent’s limited benefit plan.

4. When the needy specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply as described at subparagraph 41.24(8)“b”(2).

- v. Bona fide loans. Evidence of a bona fide loan may include any of the following:
 - (1) The loan is obtained from an institution or person engaged in the business of making loans.
 - (2) There is a written agreement to repay the money within a specified time.
 - (3) If the loan is obtained from a person not normally engaged in the business of making a loan, there is a borrower's acknowledgment of obligation to repay (with or without interest), or the borrower expresses intent to repay the loan when funds become available in the future, or there is a timetable and plan for repayment.
 - w. Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
 - x. The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, or subsidized adoption assistance.
 - y. Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.
 - z. Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383, entitled "Wartime Relocation of Civilians."
 - aa. Payments received from the Radiation Exposure Compensation Act.
 - ab. Deposits into an individual development account (IDA) when determining eligibility and benefit amount. The amount of the deposit is exempt as income and shall not be used in the 185 percent eligibility test. The deposit shall be deducted from nonexempt earned and unearned income that the client receives in the same budget month in which the deposit is made. To allow a deduction, verification of the deposit shall be provided by the end of the report month or the extended filing date, whichever is later. The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions in 41.27(2) "a" and "c" shall be applied to nonexempt earnings from employment or net profit from self-employment that remain after deducting the amount deposited into the account. Allowable deductions shall be applied to any nonexempt unearned income that remains after deducting the amount of the deposit. If the client has both nonexempt earned and unearned income, the amount deposited into the IDA account shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.
 - ac. Assigned support collected in a month and retained by child support recovery as described in subparagraph 41.27(1) "h" (2).
- 41.27(7) Exempt as income.** The following are exempt as income.
- a. Reimbursements from a third party.
 - b. Reimbursement from the employer for job-related expenses.
 - c. The following nonrecurring lump sum payments:
 - (1) Income tax refund.
 - (2) Retroactive supplemental security income benefits.
 - (3) Settlements for the payment of medical expenses.
 - (4) Refunds of security deposits on rental property or utilities.
 - (5) That part of a lump sum received and expended for funeral and burial expenses.
 - (6) That part of a lump sum both received and expended for the repair or replacement of resources.
 - d. Payments received by the family providing foster care to a child or children when the family is operating a licensed foster home.
 - e. Rescinded IAB 5/1/91, effective 7/1/91.
 - f. A small monetary nonrecurring gift, such as a Christmas, birthday or graduation gift, not to exceed \$30 per person per calendar quarter.

When a monetary gift from any one source is in excess of \$30, the total gift is countable as unearned income. When monetary gifts from several sources are each \$30 or less, and the total of all gifts exceeds \$30, only the amount in excess of \$30 is countable as unearned income.

- g.* Earned income credit.
- h.* Supplementation from county funds providing:
 - (1) The assistance does not duplicate any of the basic needs as recognized by the family investment program, or
 - (2) The assistance, if a duplication of any of the basic needs, is made on an emergency basis, not as ongoing supplementation.
- i.* Any payment received as a result of an urban renewal or low-cost housing project from any governmental agency.
- j.* A retroactive corrective payment.
- k.* The training allowance issued by the division of vocational rehabilitation, department of education.
- l.* Payments from the PROMISE JOBS program.
- m.* Rescinded, effective July 1, 1989.
- n.* The training allowance issued by the department for the blind.
- o.* Payment(s) from a passenger(s) in a car pool.
- p.* Support refunded by the child support recovery unit for the first month of termination of eligibility and the family does not receive the family investment program.
- q.* Support refunded by the child support recovery unit or otherwise paid to or for the recipient for a month of suspension. The maximum exempt payment shall be the amount of the monthly support entitlement. The payment shall never exceed the amount of support collected for the month of suspension.
- r.* Retrospective income received by an individual, whose needs are prospectively removed from the eligible group or who is no longer a member of the household, except nonrecurring lump sum income that causes a period of ineligibility and the income of a parent or stepparent who remains in the home.
- s.* Income of a nonparental relative as defined in 41.22(3) except when the relative is included in the eligible group.
- t.* The retrospective income of individuals who are prospectively added to an eligible group for the initial two months of eligibility unless retrospective budgeting is required by 41.27(9) "a"(5). The benefit of this exemption shall also apply to the incomes of persons who made application for assistance for July or August 1983 provided the family is currently eligible for assistance.
- u.* Rescinded IAB 9/11/96, effective 11/1/96.
- v.* Compensation in lieu of wages received by a child funded through an employment and training program of the U.S. Department of Labor.
- w.* Any amount for training expenses included in a payment funded through an employment and training program of the U.S. Department of Labor.
- x.* Rescinded, effective July 1, 1986.
- y.* Earnings of an applicant or recipient aged 19 or younger who is a full-time student as defined in 41.24(2) "e." The exemption applies through the entire month of the person's twentieth birthday.
EXCEPTION: When the twentieth birthday falls on the first day of the month, the exemption stops on the first day of that month.
- z.* Retrospective income attributed to an unmarried, underage parent in accordance with 41.27(8) "c" effective the first day of the month following the month in which the unmarried, underage parent turns age 18 or reaches majority through marriage. When the unmarried, underage parent turns age 18 on the first day of a month, the retrospective income of the self-supporting parent(s) becomes exempt as of the first day of that month.
- aa.* Rescinded IAB 12/3/97, effective 2/1/98.
- ab.* Incentive payments received from participation in the adolescent pregnancy prevention programs.

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CHAPTER 42

UNEMPLOYED PARENT

[Prior to 7/1/83, Social Services[770] Ch 42]

[Prior to 2/11/87, Human Services[498]]

Rescinded IAB 11/1/00, effective 1/1/01

CHAPTER 43
ALTERNATE PAYEES

[Prior to 7/1/83, Social Services[770] Ch 43]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—43.1 to 43.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—43.1(239) to 43.4(239)]

441—43.21(239B) Conservatorship or guardianship.

43.21(1) When application is filed for the family investment program by a person under conservatorship or guardianship, a copy of the court order shall be secured by the local office. Assistance payments shall be made to the conservator or guardian to be allocated for the support and care of the dependent child.

43.21(2) Rescinded IAB 8/31/05, effective 11/1/05.

441—43.22(239B) Protective payments. Rescinded IAB 8/31/05, effective 11/1/05.

441—43.23(239B) Vendor payments. Rescinded IAB 8/31/05, effective 11/1/05.

441—43.24(239B) Emergency payee. Payments may be made to persons acting for relatives who have been receiving assistance for a child in emergency situations that deprive the child of the relatives' care. These payments shall be made for a temporary period, not to exceed three months, to allow time to make and implement plans for the child's continuing care and support.

These rules are intended to implement Iowa Code section 239B.13.

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CHAPTER 44

Rescinded, effective 10/1/85

CHAPTER 45
PAYMENT

[Ch 45, January 1974 IDR Supplement, renumbered as [770] Ch 42]
[Prior to 7/1/83, Social Services[770] Ch 45]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—45.1 to 45.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—45.1(239) to 45.7(239)]

441—45.21(239B) Address. Assistance warrants shall be mailed to the recipient's current address or, upon request, to a post office box, bank, or to any other address which the recipient has good reason to request. If the recipient has a court-appointed conservator or guardian, assistance warrants shall be mailed to the conservator or guardian. Assistance may also be paid by direct deposit to the recipient's own account in a financial institution or by means of electronic benefits transfer.

441—45.22(239B) Return. Assistance warrants are not forwardable. When they cannot be delivered by the post office, they shall be returned to either the local office or to the central office.

441—45.23(239B) Held warrants. A warrant may be held by the department only in the following instances:

- 45.23(1)** The recipient's whereabouts is unknown.
- 45.23(2)** The recipient is not in the home due to an emergency and it is not known who will be serving as emergency payee.

441—45.24(239B) Underpayment. A corrective payment shall be made when the recipient receives a payment in an amount less than that for which the recipient was eligible due to an administrative or client error or the recipient reports the completion of the federal tax return requiring repayment to Internal Revenue Service of excess advance earned income credit payments received in the prior calendar year.

- 45.24(1) Attribution of underpayments.**
 - a.* An underpayment may be attributed to the local office as a result of one of the following circumstances:
 - (1) Misfiling or loss of forms or documents.
 - (2) Errors in typing or copying.
 - (3) Computer input errors.
 - (4) Mathematical errors.
 - (5) Failure to certify assistance in the correct amount when all essential information was available to the local office.
 - (6) Failure to make prompt revisions in grants following changes in policies requiring the changes as of a specific date.
 - b.* An underpayment may be attributed to the client as a result of one of the following circumstances:
 - (1) Information reported in error, oral or written, regarding the client's income, resources, or other circumstances which may affect eligibility or the amount of assistance received.

(2) Failure to timely report changes in income, resources, or other circumstances which may affect eligibility or the amount of assistance received.

(3) Rescinded IAB 12/11/02, effective 2/1/03.

45.24(2) Conditions under which a retroactive corrective payment may be made.

a. Retroactive corrective payments shall be made for all underpayments.

b. Any retroactive corrective payment for which the recipient is eligible shall first be applied to any unpaid overpayment before the balance, if any, is paid to the recipient.

c. Retroactive corrective payments shall be made for underpayments discovered on and after October 1, 1981, regardless of when the underpayment occurred. Recipients and former applicants and recipients are responsible for supplying any information needed to determine the amount of an underpayment.

45.24(3) The amount of the corrective payment to the recipient for repayment to Internal Revenue Service of excess advance earned income credit payments shall be computed on the basis of the earnings considered in determining the family investment program grant for the prior year.

45.24(4) A retroactive corrective payment is:

a. Exempt from consideration as income.

b. Exempt from consideration as a resource in the month received and the following month.

441—45.25(239B) Deceased payees. A retroactive corrective payment shall be made for deceased payees only when the payment was approved by the local office prior to the recipient's death. Payment for a special need shall be made only when the payment is entered on the automated benefit calculation system prior to the effective date of cancellation.

441—45.26(239B) Limitation on payment. A payment shall be made to an eligible recipient only when the amount of the assistance is \$10 or more.

441—45.27(239B) Rounding of need standard and payment amount. The need standard and monthly payment amount must be rounded down to the next whole dollar when the result of determining the standard of need or the payment amount is not a whole dollar.

These rules are intended to implement Iowa Code sections 239B.2, 239B.3, and 239B.7.

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

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

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

60.7(2) Income.

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

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

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

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

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

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

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

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

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

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

b. A refugee aged 65 or older.

c. A refugee who is caring for another member of the household who has a physical or mental impairment which requires, as determined by a physician or licensed or certified psychologist and verified by the department, care in the home on a substantially continuous basis, and no other appropriate member of the household is available.

d. A woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which registration would otherwise be required or within the next six months.

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

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

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

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

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

60.8(3) Refusal to register.

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

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

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

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

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

441—60.10(217) Uncategorized factors of eligibility.

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

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

60.10(3) Participation in a strike.

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

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

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

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

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

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

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

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

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

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

These rules are intended to implement Iowa Code section 217.6.

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(3) Participation in assessment II and assessment III would interfere with training initiated by the participant after orientation and the training is approvable under PROMISE JOBS. Participants who initiate training after orientation are not considered self-initiated but are otherwise treated in accordance with rule 441—93.108(239B) or in accordance with 93.111(2).

93.111(2) *Assessment-related restrictions on expense allowance assistance for self-initiated training.* When persons described at 93.111(1)“g” are still within the first quarter or semester of involvement with the training program that they have chosen, expense allowance assistance through PROMISE JOBS cannot be approved, even if the training is otherwise approvable, until the persons have completed the assessment II and assessment III options or have successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution being attended. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin. Assistance shall be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client’s situation.

93.111(3) *Requirements for persons aged 19 or younger.* Assessment and development of FIA options shall follow these guidelines for persons under the age of 20.

a. Parents under the age of 16 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion as a first step in the FIA.

b. Persons aged 16 or 17 who have not completed high school shall be expected to participate in educational activities to obtain a high school diploma or the equivalent as a first step in the FIA. Persons deemed incapable of participating in these activities by the local education agency shall choose other FIA options.

c. Persons aged 18 or 19 who have not completed high school shall be expected to participate in educational activities to obtain a high school diploma or the equivalent as a first step in the FIA if assessment indicates the person is capable of completing regular high school or an equivalent program. Persons deemed incapable of participating in these activities shall choose other FIA options.

d. For parents aged 19 and younger, the FIA shall include parenting skills training as described at rule 441—93.116(239B) or the case file shall include documentation that this requirement has been fulfilled.

e. For unmarried parents aged 17 and younger, who do not live with a parent or legal guardian, with good cause as described at 441—subrule 41.22(16), the FIA shall include FaDSS, as described at 441—Chapter 165, or other family development services, as described at rule 441—93.119(239B). The FaDSS or other family development services shall continue after the parent is aged 18 only when both the participant and the family development worker believe that the services are needed for the family to reach self-sufficiency.

93.111(4) *Participation after completion of appropriate assessment.* After completion of the appropriate assessment level, participants shall be referred for the PROMISE JOBS component services or supportive services which are designated in the completed FIA.

93.111(5) *Retention of a training slot.* Once a person has been assigned a PROMISE JOBS training slot, that person retains that training slot until FIP eligibility is lost for more than four consecutive months or an LBP is in effect.

441—93.112(239B) Job search options. Employment is an emphasis of the FIA as described at rule 441—93.109(239B). PROMISE JOBS applicants and participants shall have several options to search for work: job club, individual job search, and self-directed job search. The applicant or participant and the PROMISE JOBS worker shall incorporate into the self-sufficiency plan the job search option which is appropriate for the previous work history, skill level, and life circumstances of the applicant or participant. Job search contacts shall be documented by PROMISE JOBS staff or by participants, as appropriate. Participant documentation shall be provided as described at 93.135(3). For job search planning and reporting purposes, each in-person job search contact documented by the participant shall be considered to require one hour of participation.

93.112(1) Job club. Job club consists of one week of job-seeking skills training and two weeks of group job search. It is expected that job clubs will be designed to require at least 20 hours a week of participation in each week. However, less than 20 hours a week may be scheduled based on local office need and resources. Participants who choose job club shall receive a child care allowance, if required, and an allowance as described at 93.110(6) to cover costs of transportation, if required. The transportation allowance shall be paid in full at the start of participation.

Job-seeking skills training includes, but is not limited to: self-esteem building, goal attainment planning, résumé development, grooming, letters of application and follow-up letters, job application completion, job-retention skills, motivational exercises, identifying and eliminating employment barriers, positive impressions and self-marketing, finding job leads, obtaining interviews, use of telephones, interviewing skills development and practice interviewing.

a. All participants who choose the job club option shall receive one week of job-seeking skills training. Daily attendance during the one week of job-seeking skills training is necessary. Participants who miss any portion of the job-seeking skills training shall repeat the entire week of training.

(1) Participants who must repeat the job-seeking skills training because of absence due to reasons as described at rule 441—93.133(239B) shall receive an additional transportation allowance as described at 93.110(6) and required child care payment shall be made.

(2) Participants who must repeat job-seeking skills training for absence due to reasons other than those described at rule 441—93.133(239B) shall not receive an additional transportation allowance. Required child care payment shall be allowed.

b. Participants shall then take part in a structured employment search activity for a period not to exceed two weeks. Scheduled activities and required hours of participation shall reflect proven job search techniques and the employment environment of the community of the local office and may be varied due to the resources available and the needs of the participants.

Participants who choose job club shall make up absences which occur during the two-week job search period. Additional transportation allowances shall not be paid to these persons. Required child care payments shall be allowed.

c. Job club participants who obtain employment of 86 or more but less than 129 hours per month may discontinue job club if part-time employment was the FIA goal.

d. Job club participants who, during participation, obtain part-time employment of less than 86 hours per month shall continue job club unless the scheduled job club hours conflict with the scheduled hours of employment. PROMISE JOBS participation shall be scheduled to occur during those hours where no conflict with work hours exists.

e. Rescinded IAB 11/1/00, effective 1/1/01.

f. Participants who do not complete the number of job searches required in the period of the job club have chosen the limited benefit plan. Policies at 441—93.132(239B), 441—93.133(239B) and 441—93.134(239B) and subrule 93.138(3) apply.

d. Participants who are not in subsidized employment shall be allowed to maintain less than a full-time training workload provided that the months required to complete the training plan would not exceed 30 fiscal months for two-year degree programs and other vocational programs or 40 fiscal months for three- or four-year degree programs.

e. Rescinded IAB 11/1/00, effective 1/1/01.

f. Participants who are in unsubsidized employment and in a classroom training component simultaneously for a total of 24 hours per week or more shall be allowed to maintain less than a full-time, but at least a half-time, training workload provided that the months required to complete the training plan would not exceed 40 fiscal months for two-year degree programs and other vocational programs or 50 fiscal months for three- or four-year degree programs.

93.114(4) Clients enrolled in ABE, GED, or ESL programs must be able to complete training in the time determined by testing unless the PROMISE JOBS worker and, if appropriate, the client's academic advisor or instructor agree that additional time should be allowed. Under no circumstances, however, shall more than six additional months be allowed. Additional time shall not be allowed if, as a result, months required to complete training would exceed 24 for ABE or GED or 12 months for ESL.

93.114(5) Clients who have not completed a high school education may be required to do so before other vocational training courses may be arranged. GED or high school training courses and vocational training may run concurrently. Unless under the age of 18, clients may be approved to return to regular high school only when they can graduate within one year of their normal graduation date.

93.114(6) Testing and grade transcripts before training plan approval. Prior to training plan approval and as part of the continuing assessment process described at rule 441—93.111(239B), staff may require that clients take nationally recognized vocational tests, including the general aptitude test battery, as well as provide grade transcripts from previous training.

93.114(7) Testing before plan approval. Before plan approval for a client requesting GED, adult basic education, or English as a second language training, testing shall be conducted, when available, to determine a projected length of time for which the plan shall be approved. In regard to GED testing, a transportation allowance as described at subrule 93.110(6) and child care expenses shall be allowed if required in order for the client to participate.

93.114(8) Academic achievement requirements. Clients shall maintain the minimum cumulative grade point average required by the training facility which the client attends. If at the end of any term, a client's cumulative grade point average drops to less than that required by the training facility, the client shall be placed on probation for the next term when the counselor or the lead instructor in the educational program verifies in writing that the student's capability to complete the program has been demonstrated through regular class participation, practical application of course content, or successful work in other courses so that there is an excellent likelihood the student will raise the grade point to the acceptable level in the next semester, that the student will be able to raise the grade point average to the acceptable level through successful completion of the remaining coursework and tests, and that the student can still be expected to complete the program satisfactorily within the maximum participation period as required by subrule 93.114(3). This rule does not apply to parents under the age of 18 who are attending high school completion programs.

93.114(9) Clients are expected to maintain a full-time workload as defined by the training facility unless the department or designee has given approval to carry fewer hours in accordance with other requirements of these rules, for example, subrule 93.114(3). A half-time workload shall also be defined by the training facility when this is needed under other provisions of these rules, as in paragraph 93.114(3) "f."

93.114(10) Client responsibilities for plan approval. In order to have a plan approved, clients have the following responsibilities:

- a.* Rescinded IAB 5/13/92, effective 7/1/92.
- b.* A client must provide all information required to approve a Family Investment Agreement, Form 470-3095, and FIA Steps to Achieve Self-Sufficiency, Form 470-3096, which include vocational classroom training as an interim goal.
- c.* Rescinded IAB 10/8/97, effective 11/12/97.

93.114(11) Approvable training plans. In order to have a plan approved, the plan must meet certain criteria:

a. Training plans shall include a specific goal, that is, high school completion, improved English skills, development of specific academic or vocational skills, completion of which shall not exceed a maximum of 24 months of participation to complete high school, GED, or adult basic education, a maximum of 12 months to complete English as a second language classes, or shall not exceed the maximum participation limits for postsecondary classroom training as described in subrule 93.114(3). Up to an additional 12 months of ESL training may be allowed when need is determined by PROMISE JOBS staff. If the client is under the age of 18, the 24-month maximum to complete high school activities does not apply.

b. Training may be approved for high school completion activities, adult basic education, GED, English as a second language, and postsecondary education up to and including a baccalaureate degree program. In addition, the following training may be approved:

- (1) Previously completed courses or training only when intended as a brush up.
- (2) Correspondence courses only when the courses are required but not offered by a training facility attended by the client.

These rules are intended to implement Iowa Code Supplement sections 239B.17 to 239B.22.

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CHAPTER 94
IOWA TRANSITIONAL ASSISTANCE FOR
DIRECT EDUCATION COSTS PROGRAM
Rescinded IAB 2/6/02, effective 4/1/02

CHAPTER 32
QUALIFIED BENEFITS ARRANGEMENT

[Prior to 1/7/04, see 581—21.32]

495—32.1(97B) Qualified benefits arrangement. This rule establishes a separate unfunded qualified benefits arrangement (QBA) as provided for in Iowa Code section 97B.49I. This arrangement is established for the sole purpose of enabling IPERS to continue to apply the same formula for determining benefits payable to all employees covered by the retirement system created under Iowa Code chapter 97B, including those whose benefits are limited by Section 415 of the Internal Revenue Code.

32.1(1) The agency shall administer the QBA. The agency has full discretionary authority to determine all questions arising in connection with the QBA, including its interpretation and any factual questions arising under the QBA. Further, the agency has full authority to make modifications to the benefits payable under the QBA as may be necessary to maintain the QBA's qualification under Section 415(m) of the Internal Revenue Code.

32.1(2) All members, retired members, and beneficiaries of the agency are eligible to participate in the QBA if their benefits would exceed the limitation imposed by Section 415 of the Internal Revenue Code. Participation is determined for each plan year, and participation shall cease for any plan year in which the benefit of a retiree or beneficiary is not limited by Section 415 of the Internal Revenue Code.

32.1(3) On and after the effective date of the QBA, the agency shall pay to each eligible retiree and beneficiary a supplemental pension benefit equal to the difference between the retiree's or beneficiary's monthly benefit otherwise payable from the agency prior to any reduction or limitation because of Section 415 of the Internal Revenue Code and the actual monthly benefit payable from the agency as limited by Section 415. The agency shall compute and pay the supplemental pension benefits in the same form, at the same time, and to the same persons as such benefits would have otherwise been paid as a monthly pension under the agency except for the IRC Section 415 limitations.

32.1(4) The agency shall determine the amount of benefits that cannot be provided under the agency because of the limitations of Section 415 of the Internal Revenue Code, and the amount of contributions that must be made to the QBA as a separate fund within the retirement fund created in Iowa Code section 97B.7. If applicable, fees for the actuary's service shall be paid by the applicable employers.

32.1(5) Contributions shall not be accumulated under this QBA to pay future supplemental pension benefits. Instead, each payment of contributions by the applicable employer that would otherwise be made to the agency shall be reduced by the amount necessary to pay supplemental pension benefits and administrative expenses of the QBA. The employer shall pay to this QBA the contributions necessary to pay the required supplemental pension payments, and these contributions will be deposited in a separate fund which is a portion of the retirement fund established under Iowa Code section 97B.7 and administered by the agency. This fund is intended to be exempt from federal income tax under Sections 115 and 415(m) of the Internal Revenue Code. The agency shall pay the required supplemental pension benefits to the member out of the employer contributions so transferred. The employer contributions otherwise required under the terms of Iowa Code sections 97B.11, 97B.49B and 97B.49C shall be divided into those contributions required to pay supplemental pension benefits hereunder, and those contributions paid into and accumulated in the retirement fund created at Iowa Code section 97B.7 to pay the maximum benefits permitted. Employer contributions made to a separate fund to provide supplemental pension benefits shall not be commingled with the contributions paid into and accumulated in the retirement fund created at Iowa Code section 97B.7. The supplemental pension benefit liability shall be funded on a plan-year-to-plan-year basis. Any assets of the separate QBA fund not used for paying benefits for a current plan year shall be used, as determined by the agency, for the payment of administrative expenses of the QBA for the plan year.

32.1(6) A member cannot elect to defer the receipt of all or any part of the payments due under this QBA.

32.1(7) Payments under this rule are exempt from garnishment, assignment, attachment, alienation, judgments, and other legal processes to the same extent as provided under Iowa Code section 97B.39.

32.1(8) Nothing herein shall be construed as providing for assets to be held in trust or escrow or any form of asset segregation for members, retirees, or beneficiaries. To the extent any person acquires the right to receive benefits under this QBA, the right shall be no greater than the right of any unsecured general creditor of the state of Iowa.

32.1(9) This QBA is a portion of a governmental plan as defined in Section 414(d) of the Internal Revenue Code, is intended to meet the requirements of Internal Revenue Code Sections 115 and 415(m), and shall be so interpreted and administered.

32.1(10) Amounts deducted from employer contributions and deposited in the separate QBA fund shall not reduce the amounts that are to be credited to employer contribution accounts under Iowa Code sections 97B.11, 97B.49B and 97B.49C.

This rule is intended to implement Iowa Code section 97B.49I.

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- 40.16(462A) Maquoketa River
- 40.17(462A) Zoning of off-channel waters of the Wapsipinicon River in Pinicon Ridge Park in Linn County
- 40.18(462A) Speed restrictions on Lake Manawa
- 40.19(462A) Zoning of Little Wall Lake
- 40.20(462A) Lake Icaria, Adams County—watercraft use
- 40.21(462A) Zoning of the Des Moines River
- 40.22(462A) Upper Gar Lake, Dickinson County
- 40.23(462A) Zoning of the Mississippi River, Guttenberg river mile 616, Clayton County
- 40.24(462A) Mt. Ayr City Lake (Loch Ayr)
- 40.25(462A) Iowa River in Iowa City, Johnson County
- 40.26(462A) Zoning of the Mississippi River, Dubuque, Dubuque County
- 40.27(462A) Zoning Harpers Slough, Harpers Ferry, Allamakee County
- 40.28(462A) Black Hawk Lake, Sac County—zoned areas
- 40.29(462A) Speed and other restrictions on Brown's Lake, Woodbury County
- 40.30(462A) Speed and other restrictions on Snyder Bend Lake, Woodbury County
- 40.31(462A) Speed restrictions on East Okoboji and West Okoboji Lakes in Dickinson County
- 40.32(462A) Spirit Lake, Dickinson County—zoned areas
- 40.33(462A) Speed restrictions on the Mississippi River, Jackson County, at Spruce Creek County Park
- 40.34(462A) Speed restrictions on the Mississippi River, Jackson County, at the city of Sabula
- 40.35(462A) Speed restrictions on the Greene Impoundment of the Shell Rock River
- 40.36(462A) Zoning of the Iowa River, Iowa Falls, Hardin County
- 40.37(462A) Zoning of Crystal Lake
- 40.38(462A) Five Island Lake, Palo Alto County
- 40.39(462A) Lost Island Lake, Palo Alto and Clay Counties
- 40.40(462A) Ingham Lake, Emmet County
- 40.41(462A) Storm Lake, Buena Vista County
- 40.42(462A) Raccoon River Regional Park Lake, Polk County
- 40.43(462A) Zoning of the Mississippi River, Bellevue, Jackson County
- 40.44(462A) Three Mile Lake, Union County—watercraft use
- 40.45(462A) Zoning of the Cedar River
- 40.46(462A) Zoning of Carter Lake, Pottawattamie County
- 40.47(462A) Zoning of the Mississippi River, McGregor, Clayton County
- 40.48(462A) Zoning of the Mississippi River, Marquette, Clayton County
- 40.49(462A) Zoning of Green Island, Jackson County
- 40.50(462A) Mooring of vessels on riparian property of the state of Iowa
- 40.51(462A) Little River Lake, Decatur County
- 40.52(462A) Zoning of the Mississippi River, Johnson Slough, Clayton County
- CHAPTER 41
BOATING NAVIGATION AIDS
- 41.1(462A) Definitions
- 41.2(462A) Waterway markers
- 41.3(462A) Authority to place markers
- 41.4(462A) Maintenance of waterway markers
- 41.5 and 41.6 Reserved
- 41.7(462A) Display of waterway markers
- 41.8(462A) Specifications for waterway markers
- 41.9(462A) Waterway marking devices
- 41.10(462A) The diver's flag
- CHAPTER 42
BOATING ACCIDENT REPORTS
- 42.1(462A) Accident report
- 42.2(462A) Procedure
- 42.3(462A) Contents
- CHAPTER 43
MOTORBOAT NOISE
- 43.1(462A) Definitions
- 43.2(462A) Sound level limitation
- 43.3(462A) Serviceability
- CHAPTER 44
BOATING, SPECIAL EVENTS
- 44.1(462A) Registration exemption
- 44.2(462A) Sponsoring organizations

CHAPTER 45		50.4	Reserved
BOAT MOTOR REGULATIONS		50.5(321G)	Registration applied for card and proof of purchase
45.1(462A)	Horsepower rating	50.6(321G)	Placement in storage
45.2(462A)	Alteration of horsepower rating	50.7(321G)	Application for and placement of new or replacement vehicle identification number (VIN)
45.3(462A)	Propulsion mechanism not in use	50.8(321G)	Identification number
45.4(462A)	Horsepower limitations on artificial lakes	50.9(321G)	Procedure for placement of registration decal
45.5(462A)	Artificial marshes	50.10(321G)	Special certificates for dealers or manufacturers
CHAPTER 46		50.11(321G)	Dealer's annual report of expired registrations
ALL-TERRAIN VEHICLE AND SNOWMOBILE BONDING		50.12(321G)	Monthly all-terrain vehicle reports by county recorders
46.1(321G)	Bond required before issuance of title or registration	50.13(321G)	Monthly snowmobile vehicle reports by county recorders
CHAPTER 47		TITLE V	
VESSEL BONDING		<i>MANAGEMENT AREAS AND PRACTICES</i>	
47.1(462A)	Bond required before issuance of title or registration	CHAPTER 51	
CHAPTER 48		GAME MANAGEMENT AREAS	
INSPECTION OF PERMANENTLY MOORED VESSELS		51.1(481A)	Definitions
48.1(462A)	Purpose	51.2(481A)	Jurisdiction
48.2(462A)	Definitions	51.3(481A)	Use of firearms
48.3(462A)	Inspection requirements	51.4(481A)	Dogs prohibited—exception
48.4(462A)	Inspectors	51.5(481A)	Use of blinds and decoys on game management areas
48.5(462A)	Statewide inspection contract	51.6(481A)	Trapping on game management areas
48.6(462A)	Submission	51.7(481A)	Motor vehicle restrictions
48.7(462A)	Notification to the commission	51.8(481A)	Employees exempt
CHAPTER 49		51.9(481A)	Use of nontoxic shot on wildlife areas
OPERATION OF MOTOR VEHICLES IN MEANDERED STREAMS, NAVIGABLE STREAMS AND TROUT STREAMS		51.10(481A)	Rock climbing and rappelling
49.1(462A)	Purpose and intent	51.11(481A)	Camping restrictions
49.2(462A)	Definitions	CHAPTER 52	
49.3(462A)	Stream identification process	WILDLIFE REFUGES	
49.4(462A)	Motor vehicle prohibition in meandered streams, trout streams and navigable streams	52.1(481A)	Established
49.5(462A)	Motor vehicle prohibition in meandered streams	CHAPTER 53	
CHAPTER 50		CONTROLLED HUNTING AREAS	
ALL-TERRAIN VEHICLE AND SNOWMOBILE ACCIDENT REPORTS, TITLING, REGISTRATION AND NUMBERING		53.1(481A)	Definitions
50.1(321G)	Accident report	53.2	Reserved
50.2(321G)	Registration and titling—required forms	53.3(481A)	Waterfowl hunting on Lake Odessa
50.3(321G)	All-terrain vehicle and snowmobile safety-education classes	CHAPTER 54	
		RESTRICTION ON REMOVAL OF PLANT LIFE	
		54.1(461A)	Mushrooms and asparagus
		54.2(461A)	Fruit
		54.3(461A)	American ginseng
		54.4(461A)	Trees

98.5(483A) Eligibility for free landowner/ tenant turkey licenses	103.2(481A) Falconry
98.6(483A) Youth spring wild turkey hunt	103.3(481A) Hunting dogs
98.7 and 98.8 Reserved	
NONRESIDENT WILD TURKEY SPRING HUNTING	CHAPTER 104
98.9(483A) General	WILDLIFE IMPORTATION, TRANSPORTATION AND DISEASE MONITORING
98.10(483A) Zones open to hunting	104.1(481A) Definitions
98.11(483A) License quotas	104.2(481A) Chronic wasting disease in captive cervids
98.12(483A) Means and method of take	104.3(481A) Chronic wasting disease in captive cervids—herd monitoring program
98.13(483A) Application procedure	104.4(481A) Identification of animals
98.14(483A) Transportation tag	104.5(481A) Supervision of the CCWDSI program
CHAPTER 99	104.6(481A) Surveillance procedures
WILD TURKEY FALL HUNTING BY RESIDENTS	104.7(481A) Official cervid CWD tests
99.1(481A) General	104.8(481A) Investigation of CWD affected animals identified through surveillance
99.2(481A) Licenses	104.9(481A) Duration of quarantine
99.3(481A) Seasons	104.10(481A) Herd plan
99.4(481A) Zones	104.11(481A) Identification and disposal requirements
99.5(481A) Quotas	104.12(481A) Cleaning and disinfecting
99.6(481A) Daily, season, and possession bag limits	104.13(481A) Methods for obtaining certified CWD cervid herd status
99.7(481A) Shooting hours	104.14(481A) Recertification of CWD cervid herds
99.8(481A) Means and method of take	104.15(481A) Movement into a certified CWD cervid herd
99.9(481A) Procedures to obtain licenses	104.16(481A) Movement into a monitored CWD cervid herd
99.10(481A) Transportation tag	104.17(481A) Recognition of monitored CWD cervid herds
99.11(481A) Eligibility for free landowner/ tenant turkey licenses	104.18(481A) Recognition of certified CWD cervid herds
CHAPTER 100	104.19(481A) Intrastate movement requirements
CROW AND PIGEON REGULATIONS	104.20(481A) Import requirements
100.1(481A) Crow season	104.21(481A) Prohibited movement of cervid carcasses
100.2(481A) Pigeons	104.22(481A) Inspection
CHAPTER 101	CHAPTER 105
FALCONRY REGULATIONS	DEER POPULATION MANAGEMENT ZONES
101.1(481A) Falconry regulations	105.1(481A) Purpose
101.2(481A) Facilities and equipment	105.2(481A) Definitions
101.3(481A) Taking and possession provision	105.3(481A) Special deer management zones
101.4(481A) Annual reports	105.4(481A) State parks and recreation areas
101.5(481A) Other provisions	
101.6(481A) Compliance	
CHAPTER 102	
FALCONRY REGULATIONS FOR HUNTING GAME	
102.1(481A) General	
102.2(481A) Migratory bird regulations	
102.3(481A) Small game	
102.4(481A) Means and methods of take	
102.5(481A) Exclusions	
CHAPTER 103	
MOBILE RADIO TRANSMITTERS	
103.1(481A) Definitions	

571—40.46(462A) Zoning of Carter Lake, Pottawattamie County.

40.46(1) All vessels operated in a designated zone known as Shoal Pointe Canal shall be operated at a no-wake speed.

40.46(2) The city of Carter Lake shall designate and maintain the no-wake zone with marker buoys approved by the natural resource commission.

571—40.47(462A) Zoning of the Mississippi River, McGregor, Clayton County.

40.47(1) All vessels, except commercial barge traffic, shall be operated at a no-wake speed within the area of river mile markers 634 and 633.4 and designated by buoys or other approved uniform waterway markers.

40.47(2) The city of McGregor will designate the no-wake zone with buoys approved by the natural resource commission.

571—40.48(462A) Zoning of the Mississippi River, Marquette, Clayton County.

40.48(1) All vessels, except commercial barge traffic, shall be operated at a no-wake speed within the area of river mile markers 634.5 and 634.9 and designated by buoys or other approved uniform waterway markers.

40.48(2) The city of Marquette will designate and maintain the no-wake zone with buoys approved by the natural resource commission.

571—40.49(462A) Zoning of Green Island, Jackson County. All motorboats except authorized emergency vessels shall operate at no-wake speed year around on boat channels adjacent to the interior channel 4 levee at the Green Island State Wildlife area. Both channels begin at the Green Island county road parking lot and proceed north 7920 feet along each side of the channel 4 levee to an intersection with the Snag Slough complex.

571—40.50(462A) Mooring of vessels on riparian property of the state of Iowa. Where the state of Iowa owns riparian property adjacent to sovereign land or water, mooring of vessels is prohibited between sunset and sunrise on those riparian or sovereign lands or waters where posted by either official buoys or official signs of the department of natural resources.

571—40.51(462A) Little River Lake, Decatur County. Motorboats of outboard or inboard-outdrive type shall be permitted on Little River Lake. Vessels operating within a designated area beginning at the dam and extending north approximately to the mouth of “Bait Shop Bay” may operate at speeds greater than no-wake. The Decatur County conservation board shall designate the speed zone with marker buoys approved by the natural resource commission.

571—40.52(462A) Zoning of the Mississippi River, Johnson Slough, Clayton County. All vessels shall be operated at a no-wake speed within the area of river mile markers 627 and 629.8, in a backwater known as Johnson Slough and designated by marker buoys approved by the natural resource commission.

These rules are intended to implement the provisions of Iowa Code sections 462A.17, 462A.26, and 462A.31.

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CHAPTER 91
WATERFOWL AND COOT HUNTING SEASONS

[Prior to 12/31/86, Conservation Commission[290] Ch 107]

571—91.1(481A) Duck hunting.

91.1(1) Zone boundaries. The north duck hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to the Iowa-Illinois border. The south duck hunting zone is the remainder of the state.

91.1(2) Season dates - north zone. For canvasbacks: October 22 through November 20. For all other species: September 17 through September 21 and October 15 through December 8.

91.1(3) Season dates - south zone. For canvasbacks: October 29 through November 27. For all other species: September 24 through September 28 and October 22 through December 15.

91.1(4) Bag limit. The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 2 wood ducks, 1 pintail, 2 scaup, 3 mottled ducks, 1 canvasback, and 2 redheads. The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

91.1(5) Possession limit. Possession limit is twice the daily bag limit.

91.1(6) Shooting hours. Shooting hours are one-half hour before sunrise to sunset each day.

571—91.2(481A) Coots (split season). Same as duck season dates and shooting hours.

91.2(1) Bag and possession limits. Daily bag limit is 15 and possession limit is 30.

91.2(2) Reserved.

571—91.3(481A) Goose hunting.

91.3(1) Zone boundaries. The north goose hunting zone is that part of Iowa north of U.S. Highway 20. The south goose hunting zone is the remainder of the state.

91.3(2) Season dates - north zone. Canada geese and brant: October 1 through October 9, October 15 through December 4, and December 24 through January 2, 2006. White-fronted geese: October 1 through December 11. Light geese (white and blue-phase snow geese and Ross' geese): October 1 through January 15, 2006.

91.3(3) Season dates - south zone. Canada geese and brant: October 1 through October 9, October 22 through December 4, and December 24 through January 9, 2006. White-fronted geese: October 1 through December 11. Light geese (white and blue-phase snow geese and Ross' geese): October 1 through January 15, 2006.

91.3(4) Bag limit. Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 brant, and 20 snow geese.

91.3(5) Possession limit. The possession limit is twice the daily bag limit for Canada geese, brant and white-fronted geese. There is no possession limit for light geese.

91.3(6) Shooting hours. Shooting hours are one-half hour before sunrise until sunset each day.

91.3(7) Light goose conservation order season. Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January 16, 2006, through April 15, 2006.

a. Zone boundaries. Statewide.

b. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

c. Bag limit. Bag limit is 20 light geese.

d. Possession limit. No possession limit.

e. Other regulations. The U.S. Fish and Wildlife Service may develop special regulations concerning the hunting of light geese during the conservation order season.

91.3(8) Early Canada goose season.

- a. *Zone boundary.* Statewide.
- b. *Season dates.* September 10 through September 11.
- c. *Bag limit.* Daily bag limit is 2 Canada geese, except in the Cedar Rapids/Iowa City and Des Moines goose hunting zones.

- d. *Possession limit.* Twice the daily bag limit.

91.3(9) Cedar Rapids/Iowa City goose hunting zone.

- a. *Season dates.* September 1 through September 15.
- b. *Bag limit.* Daily bag limit is 3 Canada geese.
- c. *Possession limit.* Twice the daily bag limit.
- d. *Zone boundary.* The Cedar Rapids/Iowa City goose hunting zone includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; thence south and east along County Road E2W to Highway 920; thence north along Highway 920 to County Road E16; thence east along County Road E16 to County Road W58; thence south along County Road W58 to County Road E34; thence east along County Road E34 to Highway 13; thence south along Highway 13 to Highway 30; thence east along Highway 30 to Highway 1; thence south along Highway 1 to Morse Road in Johnson County; thence east along Morse Road to Wapsi Avenue; thence south along Wapsi Avenue to Lower West Branch Road; thence west along Lower West Branch Road to Taft Avenue; thence south along Taft Avenue to County Road F62; thence west along County Road F62 to Kansas Avenue; thence north along Kansas Avenue to Black Diamond Road; thence west on Black Diamond Road to Jasper Avenue; thence north along Jasper Avenue to Rohert Road; thence west along Rohert Road to Ivy Avenue; thence north along Ivy Avenue to 340th Street; thence west along 340th Street to Half Moon Avenue; thence north along Half Moon Avenue to Highway 6; thence west along Highway 6 to Echo Avenue; thence north along Echo Avenue to 250th Street; thence east on 250th Street to Green Castle Avenue; thence north along Green Castle Avenue to County Road F12; thence west along County Road F12 to County Road W30; thence north along County Road W30 to Highway 151; thence north along the Linn-Benton County line to the point of beginning.

91.3(10) Des Moines goose hunting zone.

- a. *Season dates.* September 1 through September 15.
- b. *Bag limit.* Daily bag limit is 3 Canada geese.
- c. *Possession limit.* Twice the daily bag limit.
- d. *Zone boundary.* The Des Moines goose hunting zone includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; thence south along County Road R38 to Northwest 142nd Avenue; thence east along Northwest 142nd Avenue to Northeast 126th Avenue; thence east along Northeast 126th Avenue to Northeast 46th Street; thence south along Northeast 46th Street to Highway 931; thence east along Highway 931 to Northeast 80th Street; thence south along Northeast 80th Street to Southeast 6th Avenue; thence west along Southeast 6th Avenue to Highway 65; thence south and west along Highway 65 to Highway 69 in Warren County; thence south along Highway 69 to County Road G24; thence west along County Road G24 to Highway 28; thence southwest along Highway 28 to 43rd Avenue; thence north along 43rd Avenue to Ford Street; thence west along Ford Street to Filmore Street; thence west along Filmore Street to 10th Avenue; thence south along 10th Avenue to 155th Street in Madison County; thence west along 155th Street to Cumming Road; thence north along Cumming Road to Badger Creek Avenue; thence north along Badger Creek Avenue to County Road F90 in Dallas County; thence east along County Road F90 to County Road R22; thence north along County Road R22 to Highway 44; thence east along Highway 44 to County Road R30; thence north along County Road R30 to County Road F31; thence east along County Road F31 to Highway 17; thence north along Highway 17 to Highway 415 in Polk County; thence east along Highway 415 to Northwest 158th Avenue; thence east along Northwest 158th Avenue to the point of beginning.

571—91.4(481A) Closed areas. Waterfowl and coots may be hunted statewide except in specific areas.

91.4(1) *Waterfowl and coots.* There shall be no open season for ducks, coots and geese on the east and west county road running through sections 21 and 22, township 70 north, range 43 west, Fremont County; three miles of U.S. Highway 30, located on the south section lines of sections 14, 15, and 16, township 78 north, range 45 west, Harrison County; on the county roads immediately adjacent to, or through, Union Slough National Wildlife Refuge, Kossuth County; Louisa County Road X61 from the E-W centerline of section 29, township 74 north, range 2 west, on the south, to the point where it crosses Michael Creek in section 6, township 74 north, range 2 west, on the north, and also all roads through or adjacent to sections 7, 18, and 19 of this same township and roads through or adjacent to sections 12 and 13, township 74 north, range 3 west; the levee protecting the Green Island Wildlife Area from the Mississippi River in Jackson County wherever the levee is on property owned by the United States or the state of Iowa; certain dikes at Otter Creek Marsh, Tama County, where posted as such; and the NE $\frac{1}{4}$, section 23, and the N $\frac{1}{2}$, section 24, all in township 70 north, range 19 west, Appanoose County, including county roads immediately adjacent thereto; and all privately owned lands in the S $\frac{1}{2}$, section 30, township 71 north, range 20 west, Lucas County, including the county road immediately adjacent thereto; Cerro Gordo County Road S14 and its right-of-way, between its junction with U.S. Highway 18 and County Road B-35, and portions of Clear Lake and Ventura Marsh, where posted as such in Cerro Gordo County; that portion of Summit Lake located south of State Highway 25 in the west half of the NW $\frac{1}{4}$ of section 2 (22 acres), and the west half of section 3 (100 acres), T72N, R31W in Union County; and within 300 feet of the center of the Army Road from New Albin to the boat ramp on the Mississippi River in sections 11 and 12, T100N, R4W, and sections 7 and 8, T100N, R3W, as posted.

91.4(2) *Canada geese.* There shall be no open season on Canada geese in certain areas described as follows:

a. Area one. Portions of Emmet County bounded as follows: Beginning at the northwest corner of section 3, township 98 north, range 33 west; thence east on the county road a distance of five miles; thence south on the county road a distance of three and one-half miles; thence west on the county road a distance of four miles; then continuing west one mile to the southwest corner of the northwest one-quarter of section 22, township 98 north, range 33 west; thence north on the county road to the point of beginning.

b. Area two. Portions of Clay and Palo Alto Counties bounded as follows: Beginning at the junction of County Roads N14 and B17 in Clay County, thence south four miles on N14 (including the road right-of-way), thence east one-half mile, thence east one mile on a county road, thence north one mile on a county road, thence east one mile on a county road to County Road N18, thence south and east approximately one mile on N18, thence east one and one-half miles on a Palo Alto County Road, thence north two miles on a county road, thence east approximately one and one-half miles on a county road, thence north two miles on a county road to County Road B17, thence west six miles to the point of beginning.

c. Area three. A portion of Dickinson County bounded as follows: Beginning at a point four and one-half miles west of the east junction of Highways 9 and 71; thence north along a county road to its junction with Dickinson County Road A15; thence generally north about three miles along A15 to its junction with Dickinson County Road M56; thence east along A15 about one and one-half miles; thence north along county roads to the Iowa-Minnesota state line; thence west along the state line seven and one-half miles; thence south along Highway 86 five miles to Highway 9; thence east along Highways 9 and 71 to the point of beginning.

d. Area four. Portions of Winnebago and Worth Counties bounded as follows: Beginning at a point two and one-half miles east of Lake Mills, Iowa, at the junction of State Highway 105 and County Road S10 (also named Bluebill Ave.); thence south along County Road S10 (including the right-of-way), i.e., Bluebill Ave., three-fourths mile to 448th St.; thence east three-fourths mile on 448th St. to Cardinal Ave.; thence south one-fourth mile to 445th St.; thence east one-fourth mile to Cedar Ave.; thence south one-half mile on Cedar Ave. to 440th St.; thence east three-fourths mile on 440th St. to Dove Ave.; thence south on Dove Ave. one-half mile to 435th St.; thence east one-fourth mile on 435th St. to Dove Ave.; thence south on Dove Ave. to County Road A34; thence east one mile on County Road A34 (including the right-of-way) to Evergreen Ave.; thence south two miles to County Road A38 (also named 410th St.); thence west eight and one-half miles along County Road A38 including the right-of-way; thence north four miles along County Road R72 (also named 210th Ave.) (including the right-of-way); thence east along State Highway 69 approximately one mile (including the right-of-way) to the intersection with State Highway 105; thence east along State Highway 105 (including the right-of-way) five miles to the point of beginning.

e. Area five. On any federal or state-owned lands or waters within the area bounded by the following roads: Beginning at the junction of Lucas County Road S56 and 400th Street; thence west on 400th Street to its intersection with 291st Avenue; thence north on 291st Avenue to its intersection with 410th Street; thence west on 410th Street to its intersection with 280th Avenue; thence north on 280th Avenue to its intersection with 430th Street; thence east on 430th Street to its intersection with 290th Trail; thence south and east on 290th Trail to its intersection with Lucas County Road S56; thence south on Lucas County Road S56 to the point of beginning, including all federal, state, and county roads through or immediately adjacent thereto.

f. Area six. Rescinded IAB 8/31/05, effective 8/11/05.

g. Area seven. Portions of Guthrie and Dallas Counties bounded as follows: Beginning at the junction of State Highways 4 and 44 in Panora; thence north along State Highway 4 (including the right-of-way) to County Road F25; thence east along County Road F25 (including the right-of-way) to York Avenue; thence south along York Avenue 1 mile (including the right-of-way) to 170th Street; thence east one-half mile (including the right-of-way) to A Avenue in Dallas County; thence south on A Avenue 5 miles (including the right-of-way) to State Highway 44; thence west along State Highway 44 (including the right-of-way) to the point of beginning.

h. Area eight. A portion of Adams County bounded as follows: Beginning at the intersection of State Highway 148 and Adams County Road N28; thence east along Adams County Road N28 (including the right-of-way) to Adams County Road N53; thence east and north along Adams County Road N53 (including the right-of-way) approximately 4.5 miles to Adams County Road H24; thence west along Adams County Road H24 (including the right-of-way) about 8 miles to Hickory Avenue; thence south along Hickory Avenue (including the right-of-way) about 2.5 miles to Adams County Road N28; thence east along Adams County Road N28 (including the right-of-way) to the point of beginning.

i. Area nine. Portions of Monona and Woodbury Counties bounded as follows: Beginning at the Iowa-Nebraska state line along the Missouri River in Monona County in section 13, township 84 north, range 47 west; proceeding east approximately 3 miles along 185th Street to Cashew Avenue (including the right-of-way and all other road right-of-ways subsequently identified in this description); thence south along Cashew Avenue to 200th Street; thence east along 200th Street to County Road K42; thence south and east along County Road K42 to Cherry Avenue; thence south along Cherry Avenue to 243rd Street; thence east along 243rd Street to Cypress Avenue; thence south along Cypress Avenue to 245th Street; thence east along 245th Street to Elm Avenue; thence south along Elm Avenue to 250th Street; thence east along 250th Street to Filbert Avenue; thence south along Filbert Avenue to 260th Street; thence east along 260th Street to County Road K45; thence north and northwest approximately 17 miles along Monona County Road K45 to the junction with State Highway 970 in Woodbury County; thence continuing northwest along State Highway 970 (otherwise known as Woodbury County Road K45) approximately 8 miles to the intersection with Woodbury County Road K25; thence west approximately 3 miles along Woodbury County Road K25 to Port Neal Road; thence continuing on along the same westerly line on the north border of section 6, township 86 north, range 47 west, to the Iowa-Nebraska state line along the Missouri River; thence southerly along the state line approximately 17 miles to the point of beginning.

j. Area ten. Rescinded IAB 9/5/01, effective 8/17/01.

k. Area eleven. Starting at the junction of the navigation channel of the Mississippi River and the mouth of the Maquoketa River in Jackson County, proceeding southwesterly along the high-water line on the west side of the Maquoketa River to U.S. Highway 52; thence southeast along U.S. Highway 52 (including the right-of-way) to 607th Avenue; thence east along 607th Avenue (including the right-of-way) to the Sioux Line Railroad; thence north and west along the Sioux Line Railroad to the Green Island levee; thence northeast along a line following the Green Island levee to the center of the navigational channel of the Mississippi River; thence northwest along the center of the navigational channel to the point of beginning.

l. Area twelve. Portions of Polk, Warren, Jasper, and Marion Counties bounded as follows: Beginning at the junction of County Road G40 and Iowa Highway 14 in Marion County; thence north along Highway 14 (including the right-of-way) to Iowa Highway 163 in Jasper County; thence north and west along Highway 163 (including the right-of-way) to County Road F70; thence west along County Road F70 (including the right-of-way) to Highway 316; thence south and east along Highway 316 (including the right-of-way) to Iowa Highway 5; thence south and east along Highway 5 (including the right-of-way) to County Road G40 in Marion County; thence east along County Road G40 (including the right-of-way) to the point of beginning.

m. Area thirteen. Portions of Van Buren and Davis Counties bounded as follows: Beginning at the junction of State Highway 16 and State Highway 98 in Van Buren County; thence east and south along State Highway 16 (including the right-of-way) to State Highway 1 in Van Buren County; thence south along State Highway 1 (including the right-of-way) to State Highway 2; thence west along State Highway 2 (including the right-of-way) to County Road V42 in Davis County; thence north along County Road V42 (including the right-of-way) to County Road J40 in Davis County; thence east and south along County Road J40 (including the right-of-way) to County Road V64 in Van Buren County; thence north along County Road V64 (including the right-of-way) to State Highway 98 in Van Buren County; thence north along State Highway 98 (including the right-of-way) to the point of beginning.

n. Area fourteen. Portions of Bremer County bounded as follows: Beginning at the intersection of County Road V56 and 140th Street (also named State Highway 93); thence south along County Road V56 (including the right-of-way) to State Highway 3; thence west along State Highway 3 (including the right-of-way) to County Road V43; thence north along County Road V43 (including the right-of-way) to County Road C33; thence west along County Road C33 (including the right-of-way) to Navaho Avenue; thence north along Navaho Avenue (including the right-of-way) to State Highway 93; thence west along State Highway 93 (including the right-of-way) to U.S. Highway 63; thence north 7 miles along U.S. Highway 63 (including the right-of-way) to the Bremer-Chickasaw County line; thence east 3 miles along the Bremer-Chickasaw County line road (including the right-of-way) to Oakland Avenue; thence south along Oakland Avenue (including the right-of-way) to 120th Street; thence east along 120th Street (including the right-of-way) to Piedmont Avenue; thence south along Piedmont Avenue (including the right-of-way) to 140th Street; thence east along 140th Street, which becomes State Highway 93, to the point of beginning.

o. Area fifteen. Portions of Butler County bounded as follows: Beginning at the junction of County Road T16 and 230th Street; thence south 5 miles on County Road T16 (including the right-of-way) to 280th Street; thence east 3 miles along 280th Street (including the right-of-way) to Grand Avenue; thence south on Grand Avenue (including the right-of-way) to County Road C55 (also named 290th Street); thence east 3 miles on County Road C55 (including the right-of-way) to Jay Avenue; thence north along Jay Avenue (including the right-of-way) to 280th Street; thence east 3 miles on 280th Street (including the right-of-way) to State Highway 14; thence north 6 miles on State Highway 14 (including the right-of-way) to 230th Street; thence west on 230th Street (including the right-of-way) to Jackson Avenue; thence north on Jackson Avenue (including the right-of-way) to 220th Street; thence west on 220th Street (including the right-of-way) to County Road T25 (also named Hickory Avenue); thence south 0.5 mile on County Road T25 (including the right-of-way) to 225th Street; thence west on 225th Street (including the right-of-way) to Fir Avenue; thence south 0.5 miles on Fir Avenue (including the right-of-way) to 230th Street; thence west on 230th Street (including the right-of-way) to the point of beginning.

p. Area sixteen. A portion of Union County bounded as follows: Beginning at the intersection of U.S. Highway 169 and Three Mile Creek Drive near Afton; thence west along U.S. Highway 34 (including the right-of-way) approximately 2.5 miles to Union County Road P43 (also named Twelve Mile Lake Road); thence north along Union County Road P43 (including the right-of-way) approximately 5 miles to Union County Road H17; thence east along Union County Road H17 (including the right-of-way) approximately 6 miles to Quail Avenue; thence south along Quail Avenue (including the right-of-way) to Three Mile Creek Drive; thence south along Three Mile Creek Drive to the point of beginning.

q. Area seventeen. Rescinded IAB 9/1/04, effective 8/13/04.

91.4(3) Forney Lake. The entire Forney Lake area, in Fremont County, north of the east-west county road, shall be closed to waterfowl hunting prior to the opening date for taking geese on the area each year.

571—91.5(481A) Canada goose hunting within closed areas.

91.5(1) Ruthven, Kettleston-Hogsback, Ingham Lake and Rice Lake closed areas.

a. Purpose. The hunting of Canada geese in closed areas is being undertaken to allow landowners or tenants who farm in these closed areas to hunt Canada geese on land they own or farm in the closed area.

b. Criteria.

(1) Landowners and tenants who own or farm land in the closed areas will be permitted to hunt Canada geese in the closed areas for three years. This experimental hunting opportunity will be evaluated by the landowners and the DNR following each season, at which time changes may be made.

(2) Landowners and those individuals named on the permit according to the criteria specified in paragraph (9) of this subrule will be permitted to hunt in the closed area. Tenants may obtain a permit instead of the landowner if the landowner transfers this privilege to the tenant. Landowners may choose, at their discretion, to include the tenant and those individuals of the tenant's family specified in paragraph (9) of this subrule on their permit. Landowners may assign the permit for their land to any landowner or tenant who owns or farms at least eight acres inside the closed area. Assigned permits must be signed by both the permittee and the landowner assigning the permit.

(3) Landowners must hold title to, or tenants must farm by a rent/share/lease arrangement, at least eight acres inside the closed area to qualify for a permit.

(4) No more than one permit will be issued to corporations, estates, or other legal associations that jointly own land in the closed area. No individual may obtain more than two permits nor may an individual be named as a participant on more than two permits.

(5) Persons holding a permit can hunt with those individuals named on their permit as specified in paragraph (9) of this subrule on any property they own (or rent/share/lease in the case of tenants) in the closed area provided their activity complies with all other regulations governing hunting. Nothing herein shall permit the hunting of Canada geese on public property within the closed area.

(6) Persons hunting under this permit must adhere to all municipal, county, state and federal regulations that are applicable to hunting and specifically applicable to Canada goose hunting including, but not limited to: daily limits, possession limits, shooting hours, methods of take, and transportation. Hunting as authorized by this rule shall not be used to stir or rally waterfowl.

(7) Hunting within the closed area will be allowed through October 15.

(8) Permit holders will be allowed to take eight Canada geese per year in the closed area.

(9) Permits will be issued only to individual landowners or tenants; however, permit holders must specify, when requesting a permit, the names of all other individuals qualified to hunt on the permit. Individuals qualified to hunt on the permit shall include the landowners or tenants and their spouses, children, children's spouses, grandchildren, siblings and siblings' spouses only.

c. Procedures.

(1) Permits can be obtained from the local conservation officer at the wildlife unit headquarters within the closed area at announced times, but no later than 48 hours before the first Canada goose season opens. The permit will be issued to an individual landowner or tenant and must list the names of all individuals that may hunt with the permittee. The permit will also contain a description of the property covered by the permit. The permit must be carried by a member of the hunting party whose name is listed on the permit. Conservation officers will keep a record of permittees and locations of properties that are covered by permits.

(2) Eight consecutively numbered tags will be issued with each permit. Geese will be tagged around the leg immediately upon being reduced to possession and will remain tagged until delivered to the person's abode. Within one week of the close of hunting within the closed area during at least the first three years the hunt is permitted, unused tags must be turned in at the wildlife unit headquarters within the closed area or the permittee must report the number of geese killed. Failure to turn in unused tags or report the number of geese killed within the specified time period may result in the permittee's forfeiting the opportunity to hunt within the closed area the following year.

(3) No one may attempt to take Canada geese under this permit unless the person possesses an unused tag for the current year.

(4) No landowner or tenant shall be responsible or liable for violations committed by other individuals listed on the permit issued to the landowner or tenant.

91.5(2) Reserved.

571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held on October 8 and 9, 2005, in the north duck hunting zone and October 8 and 9, 2005, in the south duck hunting zone. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

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CHAPTER 102
FALCONRY REGULATIONS FOR HUNTING GAME

[Prior to 12/31/86, Conservation Commission[290] Ch 100]

571—102.1(481A) General. Game may be taken annually, by licensed falconers only, subject to the following:

102.1(1) Definitions. For the purposes of this rule, the following definitions are used:

“*Falconer*” means any person licensed under the provisions of 571—Chapter 101, Iowa Administrative Code, who pursues the sport of falconry.

“*Falconry*” means the sport of taking quarry by means of a trained raptor.

“*Raptor*” means a live migratory bird of the family Accipitridae, other than the bald eagle (*Haliaeetus leucocephalus*), or of the family Falconidae, or the great horned owl (*Bubo virginianus*) of the family Strigidae.

102.1(2) Licenses and permits. In addition to the falconry license, a falconer must have all other licenses, stamps, and permits required by law.

102.1(3) Other requirements. Except for the provisions of rule 571—102.2(481A), any person taking game by falconry must comply with all other statutes and rules governing this activity.

571—102.2(481A) Migratory bird regulations. Seasons and limits for taking migratory birds by means of falconry shall be as follows:

102.2(1) Ducks and coots. The season for taking ducks and coots statewide by means of falconry may vary among duck hunting zones. Falconry seasons for ducks and coots shall be open whenever the conventional (gun) duck and coot hunting season is open in each zone, as described in rules 571—91.1(481A) and 571—91.2(481A), and shall also be open beginning December 15 in each zone and remain open until the combined total of the conventional hunting season days plus falconry hunting season days reaches 107 for the zone or February 28, whichever occurs first.

102.2(2) Geese. The season for taking geese by means of falconry may vary among goose hunting zones. Falconry seasons for white-fronted geese and light geese (white and blue-phase snow geese and Ross’ geese) shall begin each year on the first day of the conventional (gun) hunting season for these geese in each zone, as described in rule 571—91.3(481A), and continue in each zone for 107 consecutive days. Falconry seasons for Canada geese and brant shall be open concurrently with the conventional (gun) hunting season for these geese as well as any days between the end of the second segment of the season for Canada geese and brant and the start of the third segment of the season for Canada geese and brant.

102.2(3) Rails, snipe and woodcock. The seasons for taking rails, snipe and woodcock by means of falconry shall begin each year on the first day of the conventional (gun) hunting seasons for these species, as described in rules 571—97.1(481A), 571—97.2(481A), and 571—97.3(481A), and continue for 107 consecutive days. The entire state is open for these species.

102.2(4) Hawking hours and limits. Hawking hours for migratory game birds are one-half hour before sunrise to sunset. The daily bag limit may include no more than three migratory game birds, singly or in aggregate. The possession limit is twice the daily bag limit.

571—102.3(481A) Small game. Seasons and limits for the taking of pheasant (both sexes), quail, gray partridge, ruffed grouse, squirrels, cottontail rabbit and jackrabbit, by falconry only, shall be as follows:

102.3(1) Seasons.

a. Pheasant (both sexes), quail, gray partridge, ruffed grouse, and jackrabbit. The season for the taking of pheasant, quail, gray partridge, ruffed grouse, and jackrabbit shall be from October 1 of each year through March 31 of the following year.

b. Cottontail rabbit and squirrel. The season for the taking of cottontail rabbits and squirrels shall be from September 1 of each year through March 31 of the following year.

102.3(2) Limits.

a. Pheasants (both sexes) and jackrabbit. The daily limit shall be two pheasants, no more than one of which may be a hen, and one jackrabbit; possession limit shall be four pheasants and two jackrabbits.

b. Quail, gray partridge, ruffed grouse, squirrels and cottontail rabbit. The daily limit shall be two quail, two gray partridge, two ruffed grouse, four cottontail rabbits and four squirrels; possession limit shall be four quail, four gray partridge, four ruffed grouse, eight cottontail rabbits, and eight squirrels.

571—102.4(481A) Means and methods of take. No person shall have in possession any firearm or any other implement for the taking of game while hunting game by means of falconry.

571—102.5(481A) Exclusions. Nothing in this chapter shall pertain to the taking of game under 571— Chapters 91, 96, 97 and 107, Iowa Administrative Code.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

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CHAPTER 32
CONTINUING EDUCATION FOR
MARITAL AND FAMILY THERAPISTS
AND MENTAL HEALTH COUNSELORS

- 32.1(272C) Definitions
- 32.2(272C) Continuing education requirements
- 32.3(154D,272C) Standards
- 32.4(154D,272C) Audit of continuing education report
- 32.5(154D,272C) Automatic exemption
- 32.6(154D,272C) Grounds for disciplinary action
- 32.7 and 32.8 Reserved
- 32.9(154D,272C) Continuing education exemption for disability or illness

CHAPTER 33
DISCIPLINE FOR MARITAL AND FAMILY
THERAPISTS AND MENTAL HEALTH
COUNSELORS

- 33.1(154D) Definitions
- 33.2(154D,272C) Grounds for discipline
- 33.3(147,272C) Method of discipline
- 33.4(272C) Discretion of board

CHAPTER 34
FEES

- 34.1(147,154D) License fees

CHAPTERS 35 to 39
Reserved

CHIROPRACTIC

CHAPTER 40
ADMINISTRATIVE AND REGULATORY
AUTHORITY FOR THE BOARD OF
CHIROPRACTIC EXAMINERS

- 40.1(17A) Definitions
- 40.2(17A) Purpose of board
- 40.3(17A,147,272C) Organization of board and proceedings
- 40.4(17A) Official communications
- 40.5(17A) Office hours
- 40.6(21) Public meetings

CHAPTER 41
LICENSURE OF
CHIROPRACTIC PHYSICIANS

- 41.1(151) Definitions
- 41.2(151) Requirements for licensure
- 41.3(151) Examination requirements
- 41.4(151) Educational qualifications
- 41.5(151) Temporary certificate
- 41.6(151) Licensure by endorsement
- 41.7(151) Licensure by reciprocal agreement
- 41.8(151) License renewal
- 41.9 and 41.10 Reserved
- 41.11(147) Duplicate certificate or wallet card
- 41.12(147) Reissued certificate or wallet card
- 41.13(17A,151,272C) License denial
- 41.14(17A,147,272C) License reactivation
- 41.15(17A,147,272C) License reinstatement

CHAPTER 42
COLLEGES FOR
CHIROPRACTIC PHYSICIANS

- 42.1(151) Definitions
- 42.2(151) Board-approved chiropractic colleges
- 42.3(151) Practice by chiropractic interns and chiropractic residents
- 42.4(151) Approved chiropractic preceptorship program
- 42.5(151) Approved chiropractic physician preceptors
- 42.6(151) Termination of preceptorship

CHAPTER 43
PRACTICE OF
CHIROPRACTIC PHYSICIANS

- 43.1(151) Definitions
- 43.2(147,272C) Principles of chiropractic ethics
- 43.3(514F) Utilization and cost control review
- 43.4(151) Chiropractic insurance consultant
- 43.5(151) Acupuncture
- 43.6 Reserved
- 43.7(151) Adjunctive procedures
- 43.8(151) Physical examination
- 43.9(151) Gonad shielding

CHAPTER 44		60.2(157)	Requirements for licensure
CONTINUING EDUCATION FOR		60.3(157)	Criteria for licensure in specific
CHIROPRACTIC PHYSICIANS			practice disciplines
44.1(151)	Definitions	60.4(157)	Practice-specific training
44.2(272C)	Continuing education requirements		requirements
44.3(151,272C)	Standards	60.5(157)	Licensure restrictions relating to
44.4(151,272C)	Audit of continuing education		practice
	report	60.6(157)	Consent and reporting
44.5(151,272C)	Automatic exemption		requirements
44.6(272C)	Continuing education	60.7(157)	Licensure by endorsement
	exemption for disability or	60.8(157)	License renewal
	illness	60.9(157)	Temporary permits to practice
44.7(151,272C)	Grounds for disciplinary		cosmetology arts and sciences
	action	60.10(157)	Demonstrator's permit
CHAPTER 45		60.11(157)	License renewal
DISCIPLINE FOR		60.12(147)	Reissued certificate or wallet card
CHIROPRACTIC PHYSICIANS		60.13 and 60.14	Reserved
45.1(151)	Definitions	60.14(272C)	Lapsed licenses
45.2(151,272C)	Grounds for discipline	60.15(147)	Duplicate certificate or wallet card
45.3(147,272C)	Method of discipline	60.16(272C)	License denial
45.4(272C)	Discretion of board	60.17(17A,147,272C)	License reactivation
		60.18(17A,147,272C)	License reinstatement
CHAPTER 46		CHAPTER 61	
FEES		LICENSURE OF SALONS AND SCHOOLS	
46.1(151)	License fees	OF COSMETOLOGY ARTS AND SCIENCES	
CHAPTERS 47 to 58		61.1(157)	Definitions
Reserved		61.2(157)	Salon licensing
<i>COSMETOLOGISTS</i>		61.3(157)	Salon license renewal
CHAPTER 59		61.4(272C)	Lapsed salon license
ADMINISTRATIVE AND REGULATORY		61.5(157)	Display requirements for salons
AUTHORITY FOR THE BOARD OF		61.6(147)	Duplicate certificate or wallet card
COSMETOLOGY ARTS AND SCIENCES			for salons
EXAMINERS		61.7(157)	Licensure for schools of
59.1(17A,157)	Definitions		cosmetology arts and sciences
59.2(17A)	Purpose of board	61.8(157)	School license renewal
59.3(17A)	Organization of board and	61.9(272C)	Lapsed school license
	proceedings	61.10(147)	Duplicate certificate or wallet
59.4(17A)	Official communications		card for schools
59.5(17A)	Office hours	61.11(157)	Physical requirements for schools
59.6(21)	Public meetings		of cosmetology arts and
			sciences
CHAPTER 60		61.12(157)	Minimum equipment requirements
LICENSURE OF COSMETOLOGISTS,		61.13(157)	Course of study requirements
ELECTROLOGISTS, ESTHETICIANS,		61.14(157)	Instructors
MANICURISTS, NAIL TECHNOLOGISTS,		61.15(157)	Student instructors
AND INSTRUCTORS OF COSMETOLOGY		61.16(157)	Students
ARTS AND SCIENCES		61.17(157)	Attendance requirements
60.1(157)	Definitions		

- 61.18(157) Accelerated learning
 61.19(157) Mentoring program
 61.20(157) Graduate of a school of
 cosmetology arts and sciences
 61.21(157) Records requirements
 61.22(157) Classrooms used for other
 educational purposes
 61.23(157) Public notice
- CHAPTER 62
FEES
- 62.1(147,157) License fees
- CHAPTER 63
SANITATION FOR SALONS AND
SCHOOLS OF COSMETOLOGY
ARTS AND SCIENCES
- 63.1(157) Definitions
 63.2(157) Posting of sanitation rules and
 inspection report
 63.3(157) Display of licenses
 63.4(157) Responsibilities of salon owners
 63.5(157) Building standards
 63.6(157) Salons in residential buildings
 63.7(157) Salons adjacent to other businesses
 63.8(157) Smoking
 63.9(157) Personal cleanliness
 63.10(157) Universal precautions
 63.11(157) Minimum equipment and
 supplies
 63.12(157) Disinfecting nonelectrical
 instruments and equipment
 63.13(157) Disinfecting electrical
 instruments
 63.14(157) Instruments and supplies that
 cannot be disinfected
 63.15(157) Sterilizing instruments
 63.16(157) Sanitary method for creams,
 cosmetics, dusters and styptics
 63.17(157) Disposal of materials
 63.18(157) Prohibited hazardous substances
 and use of products
 63.19(157) Proper protection of neck
 63.20(157) Proper laundering and storage
 63.21(157) Pets
 63.22(157) Workstations
 63.23(157) Records
 63.24(157) Salons providing electrology
- CHAPTER 64
CONTINUING EDUCATION FOR
COSMETOLOGY ARTS AND SCIENCES
- 64.1(157) Definitions
- 64.2(157) Continuing education requirements
 64.3(157,272C) Standards
 64.4(157,272C) Audit of continuing education
 report
 64.5(157,272C) Automatic exemption
 64.6(157,272C) Grounds for disciplinary
 action
 64.7 and 64.8 Reserved
 64.9(157,272C) Continuing education
 exemption for disability or
 illness
- CHAPTER 65
DISCIPLINE FOR COSMETOLOGY ARTS
AND SCIENCES LICENSEES,
INSTRUCTORS, SALONS, AND SCHOOLS
- 65.1(157,272C) Definitions
 65.2(157,272C) Grounds for discipline
 65.3(157,272C) Method of discipline
 65.4(272C) Discretion of board
 65.5(157) Civil penalties against
 nonlicensees
- CHAPTERS 66 to 79
Reserved
- DIETITIANS*
- CHAPTER 80
ADMINISTRATIVE AND REGULATORY
AUTHORITY FOR THE BOARD OF
DIETETIC EXAMINERS
- 80.1(17A,152A) Definitions
 80.2(17A) Purpose of board
 80.3(17A,152A,272C) Organization of board
 and proceedings
 80.4(17A) Official communications
 80.5(17A) Office hours
 80.6(17A) Public meetings
- CHAPTER 81
LICENSURE OF DIETITIANS
- 81.1(152A) Definitions
 81.2(152A) Nutrition care
 81.3(152A,272C) Principles
 81.4(152A) Requirements for licensure
 81.5(152A) Educational qualifications
 81.6(152A) Supervised experience
 81.7(152A) Licensure by endorsement
 81.8(152A) Licensure by reciprocal agreement
 81.9(152A) License renewal

- 81.10 Reserved
- 81.11(147) Duplicate certificate or wallet card
- 81.12(147) Reissued certificate or wallet card
- 81.13 Reserved
- 81.14(17A,147,272C) License denial
- 81.15(17A,147,272C) License reactivation
- 81.16(17A,147,272C) License reinstatement

CHAPTER 82
CONTINUING EDUCATION
FOR DIETITIANS

- 82.1(152A) Definitions
- 82.2(152A) Continuing education requirements
- 82.3(152A,272C) Standards
- 82.4(152A,272C) Audit of continuing education report
- 82.5(152A,272C) Automatic exemption
- 82.6(152A,272C) Grounds for disciplinary action
- 82.7 and 82.8 Reserved
- 82.9(152A,272C) Continuing education exemption for disability or illness

CHAPTER 83
DISCIPLINE FOR DIETITIANS

- 83.1(152A) Definitions
- 83.2(152A,272C) Grounds for discipline
- 83.3(152A,272C) Method of discipline
- 83.4(272C) Discretion of board

CHAPTER 84
FEES

- 84.1(147,152A) License fees

CHAPTERS 85 to 98
Reserved

FUNERAL DIRECTORS

CHAPTER 99
ADMINISTRATIVE AND REGULATORY
AUTHORITY FOR THE BOARD
OF MORTUARY SCIENCE EXAMINERS

- 99.1(17A) Definitions
- 99.2(17A) Purpose of board
- 99.3(17A,147,272C) Organization of board and proceedings
- 99.4(17A) Official communications
- 99.5(17A) Office hours
- 99.6(21) Public meetings

CHAPTER 100

PRACTICE OF FUNERAL DIRECTORS,
FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS

- 100.1(156) Definitions
- 100.2(156) Care and preparation of dead human remains and fetuses
- 100.3(156) Permanent identification tag
- 100.4(142,156) Removal and transfer of dead human remains and fetuses
- 100.5(135,144) Burial transit permits
- 100.6(156) Preparation and embalming activities
- 100.7(156) Arranging and directing funeral and memorial ceremonies
- 100.8(142,156) Unclaimed dead human remains for scientific use
- 100.9(144) Disinterments
- 100.10(156) Cremation of human remains and fetuses

CHAPTER 101

LICENSURE OF FUNERAL DIRECTORS

- 101.1(156) Definitions
- 101.2(156) Requirements for licensure
- 101.3(156) Educational qualifications
- 101.4(156) Examination requirements
- 101.5(147,156) Internship and preceptorship
- 101.6(156) Student practicum
- 101.7(156) Funeral establishment license or cremation establishment license or both establishment licenses
- 101.8(156) Licensure by endorsement
- 101.9(156) Licensure by reciprocal agreement
- 101.10(156) License renewal
- 101.11(147) Duplicate certificate or wallet card
- 101.12(147) Reissued certificate or wallet card
- 101.13(272C) Renewal of a funeral establishment license or cremation establishment license or both establishment licenses
- 101.14(272C) Reactivation of a funeral establishment license or a cremation establishment license or both establishment licenses
- 101.15(17A,147,272C) License denial
- 101.16(272C) Reinstatement of a funeral establishment license or a cremation establishment license or both establishment licenses

- 101.17(17A,147,272C) License denial
- 101.18(17A,147,272C) License reactivation
- 101.19(17A,147,272C) License reinstatement

CHAPTER 102
CONTINUING EDUCATION
FOR FUNERAL DIRECTORS

- 102.1(272C) Definitions
- 102.2(272C) Continuing education requirements
- 102.3(156,272C) Standards
- 102.4(156,272C) Audit of continuing education report
- 102.5(156,272C) Automatic exemption
- 102.6(272C) Grounds for disciplinary action
- 102.7 and 102.8 Reserved
- 102.9(272C) Continuing education exemption for disability or illness

CHAPTER 103
DISCIPLINARY PROCEEDINGS

- 103.1(156) Definitions
- 103.2(17A,147,156,272C) Disciplinary authority
- 103.3(17A,147,156,272C) Grounds for discipline against funeral directors
- 103.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments
- 103.5(17A,147,156,272C) Method of discipline
- 103.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions

CHAPTER 104
ENFORCEMENT PROCEEDINGS
AGAINST NONLICENSEES

- 104.1(156) Civil penalties against nonlicensees
- 104.2(156) Unlawful practices
- 104.3(156) Investigations
- 104.4(156) Subpoenas
- 104.5(156) Notice of intent to impose civil penalties
- 104.6(156) Requests for hearings
- 104.7(156) Factors to consider
- 104.8(156) Enforcement options

CHAPTER 105
FEES

- 105.1(147,156) License fees

CHAPTERS 106 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

- 120.1(17A,154A) Definitions
- 120.2(17A,154A) Purpose of board
- 120.3(17A,154A) Organization of board and proceedings
- 120.4(17A) Official communications
- 120.5(154A) Office hours
- 120.6(21) Public meetings

CHAPTER 121
LICENSURE OF
HEARING AID DISPENSERS

- 121.1(154A) Definitions
- 121.2(154A) Temporary permits
- 121.3(154A) Supervision requirements
- 121.4(154A) Requirements for initial licensure
- 121.5(154A) Examination requirements
- 121.6(154A) Licensure by endorsement
- 121.7(154A) Licensure by reciprocal agreement
- 121.8(154A) Display of license
- 121.9(154A) License renewal
- 121.10 and 121.11 Reserved
- 121.12(154A,147) Duplicate certificate or wallet card
- 121.13(272C) License denial
- 121.14(17A,147,272C) License reactivation
- 121.15(17A,147,272C) License reinstatement

CHAPTER 122
CONTINUING EDUCATION FOR
HEARING AID DISPENSERS

- 122.1(154A) Definitions
- 122.2(154A) Continuing education requirements
- 122.3(154A,272C) Standards
- 122.4(154A,272C) Audit of continuing education report
- 122.5(154A,272C) Automatic exemption
- 122.6(154A,272C) Continuing education exemption for disability or illness
- 122.7(154A,272C) Grounds for disciplinary action

	CHAPTER 240		242.2(147,272C)	Grounds for discipline
	LICENSURE OF PSYCHOLOGISTS		242.3(147,272C)	Method of discipline
240.1(154B)	Definitions		242.4(272C)	Discretion of board
240.2(154B)	Requirements for licensure			CHAPTER 243
240.3(154B)	Educational qualifications			FEEES
240.4(154B)	Examination requirements		243.1(147,154B)	License fees
240.5(154B)	Title designations			CHAPTERS 244 to 259
240.6(154B)	Supervised professional experience			Reserved
240.7(154B)	Certified health service provider in psychology			<i>RESPIRATORY CARE PRACTITIONERS</i>
240.8(154B)	Exemption to licensure			CHAPTER 260
240.9(154B)	Psychologists' supervision of unlicensed persons in a practice setting			ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD
240.10(147)	Licensure by endorsement			OF RESPIRATORY CARE EXAMINERS
240.11(147)	Licensure by reciprocal agreement		260.1(17A)	Definitions
240.12(147)	License renewal		260.2(17A)	Purpose of board
240.13 and 240.14	Reserved		260.3(17A,147,272C)	Organization of board and proceedings
240.15(147)	Duplicate certificate or wallet card		260.4(17A)	Official communications
240.16(147)	Reissued certificate or wallet card		260.5(17A)	Office hours
240.17(17A,147,272C)	License denial		260.6(21)	Public meetings
240.18(17A,147,272C)	License reactivation			CHAPTER 261
240.19(17A,147,272C)	License reinstatement			LICENSURE OF RESPIRATORY CARE PRACTITIONERS
	CHAPTER 241		261.1(152B)	Definitions
	CONTINUING EDUCATION FOR PSYCHOLOGISTS		261.2(152B)	Requirements for licensure
241.1(272C)	Definitions		261.3(152B)	Educational qualifications
241.2(272C)	Continuing education requirements		261.4(152B)	Examination requirements
241.3(154B,272C)	Standards		261.5(152B)	Students/graduates
241.4(154B,272C)	Audit of continuing education report		261.6(152B)	Licensure by endorsement
241.5(154B,272C)	Automatic exemption		261.7(147)	Licensure by reciprocal agreement
241.6(154B,272C)	Continuing education exemption for disability or illness		261.8(152B)	License renewal
241.7(154B,272C)	Grounds for disciplinary action		261.9 and 261.10	Reserved
	CHAPTER 242		261.11(147)	Duplicate certificate or wallet card
	DISCIPLINE FOR PSYCHOLOGISTS		261.12(147)	Reissued certificate or wallet card
242.1(154B)	Definitions		261.13(17A,147,272C)	License denial
			261.14(17A,147,272C)	License reactivation
			261.15(17A,147,272C)	License reinstatement

CHAPTER 262

CONTINUING EDUCATION FOR
RESPIRATORY CARE PRACTITIONERS

- 262.1(152B,272C) Definitions
- 262.2(152B,272C) Continuing education requirements
- 262.3(152B,272C) Standards
- 262.4(152B,272C) Approval of sponsors, programs and activities for continuing education
- 262.5(152B,272C) Automatic exemption
- 262.6 Reserved
- 262.7(152B,272C) Grounds for disciplinary action
- 262.8 Reserved
- 262.9(152B,272C) Continuing education exemption for disability or illness

CHAPTER 263

DISCIPLINE FOR RESPIRATORY CARE
PRACTITIONERS

- 263.1(152B) Definitions
- 263.2(152B,272C) Grounds for discipline
- 263.3(147,272C) Method of discipline
- 263.4(272C) Discretion of board

CHAPTER 264

FEES

- 264.1(147,152B) License fees

CHAPTER 265

PRACTICE OF RESPIRATORY CARE
PRACTITIONERS

- 265.1(152B,272C) Code of ethics
- 265.2(152B,272C) Intravenous administration
- 265.3(152B,272C) Polysomnography testing

CHAPTERS 266 to 278

Reserved

SOCIAL WORKERS

CHAPTER 279

ADMINISTRATIVE AND REGULATORY
AUTHORITY FOR THE BOARD OF
SOCIAL WORK EXAMINERS

- 279.1(17A) Definitions

- 279.2(17A) Purpose of board
- 279.3(17A,147,272C) Organization of board and proceedings
- 279.4(17A) Official communications
- 279.5(17A) Office hours
- 279.6(21) Public meetings

CHAPTER 280

LICENSURE OF SOCIAL WORKERS

- 280.1(154C) Definitions
- 280.2(154C) Social work services subject to regulation
- 280.3(154C) Requirements for licensure
- 280.4(154C) Written examination
- 280.5(154C) Educational qualifications
- 280.6(154C) Supervised professional practice for the LISW
- 280.7(154C) Licensure by endorsement
- 280.8(154C) Licensure by reciprocal agreement
- 280.9(154C) License renewal
- 280.10 and 280.11 Reserved
- 280.12(272C) Duplicate certificate or wallet card
- 280.13(17A,147,272C) License denial
- 280.14(17A,147,272C) License reactivation
- 280.15(17A,147,272C) License reinstatement

CHAPTER 281

CONTINUING EDUCATION FOR
SOCIAL WORKERS

- 281.1(154C) Definitions
- 281.2(154C) Continuing education requirements
- 281.3(154C,272C) Standards
- 281.4(154C,272C) Audit of continuing education report
- 281.5(154C,272C) Automatic exemption
- 281.6(154C,272C) Continuing education exemption for disability or illness
- 281.7(154C,272C) Grounds for disciplinary action

CHAPTER 282		300.6(147)	Temporary clinical license
PRACTICE OF SOCIAL WORKERS		300.7(147)	Temporary permit
282.1(154C)	Definitions	300.8(147)	Use of assistants
282.2(154C)	Rules of conduct	300.9(147)	Licensure by endorsement
CHAPTER 283		300.10(147)	Licensure by reciprocal agreement
DISCIPLINE FOR SOCIAL WORKERS		300.11(147)	License renewal
283.1(154B)	Definitions	300.12(272C)	Exemptions for inactive practitioners
283.2(272C)	Grounds for discipline	300.13(272C)	Lapsed licenses
283.3(147,272C)	Method of discipline	300.14(147)	Duplicate certificate or wallet card
283.4(272C)	Discretion of board	300.15(147)	Reissued certificate or wallet card
CHAPTER 284		300.16(17A,147,272C)	License denial
FEES		CHAPTERS 301 and 302	
284.1(147,154C)	License fees	Reserved	
CHAPTERS 285 to 298		CHAPTER 303	
Reserved		Reserved	
<i>SPEECH PATHOLOGISTS AND AUDIOLOGISTS</i>		CHAPTER 303	
CHAPTER 299		CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS	
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS		303.1(147)	Definitions
299.1(17A,147)	Definitions	303.2(147)	Continuing education requirements
299.2(17A)	Purpose of board	303.3(147)	Standards for approval
299.3(17A,272C)	Organization of board and proceedings	303.4(147)	Approval of sponsors, programs, and activities for continuing education
299.4(17A)	Official communication	303.5(147)	Reporting continuing education by licensee
299.5(17A)	Office hours	303.6(147)	Reinstatement of lapsed license
299.6(21)	Public meetings	303.7(147,272C)	Continuing education waiver for active practitioners
299.7(147)	Hearing tests supervised by a physician	303.8(147,272C)	Continuing education exemption for inactive practitioners
CHAPTER 300		303.9(147,272C)	Continuing education waiver for disability or illness
LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS		303.10(147,272C)	Reinstatement of inactive practitioners
300.1(147)	Definitions	303.11(272C)	Hearings
300.2(147)	Speech pathology and audiology services subject to regulation		
300.3(147)	Requirements for licensure		
300.4(147)	Educational qualifications		
300.5(147)	Examination requirements		

CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS
AND AUDIOLOGISTS

- 304.1(147) Definitions
304.2(272C) Grounds for discipline
304.3(272C) Method of discipline
304.4(272C) Discretion of board

CHAPTER 305
FEES

- 305.1(147) License fees

CHAPTERS 306 to 324
Reserved

PHYSICIAN ASSISTANTS

CHAPTER 325
ADMINISTRATIVE AND REGULATORY
AUTHORITY FOR THE BOARD OF
PHYSICIAN ASSISTANT EXAMINERS

- 325.1(17A) Definitions
325.2(17A) Purpose of board
325.3(17A,147,272C) Organization of board
and proceedings
325.4(17A) Official communications
325.5(17A) Office hours
325.6(21) Public meetings

CHAPTER 326
LICENSURE OF PHYSICIAN ASSISTANTS

- 326.1(148C) Definitions
326.2(148C) Requirements for licensure
326.3(148C) Temporary licensure
326.4(148C) Licensure by endorsement
326.5(148C) Licensure by reciprocal
agreement
326.6(148C) Examination requirements
326.7(148C) Educational qualifications
326.8(148C) Supervision requirements
326.9(148C) License renewal
326.10 and 326.11 Reserved
326.12(147) Duplicate certificate or wallet
card
326.13(147) Reissued certificate or wallet
card
326.14(272C) License denial
326.15(148C) Use of title
326.16(148C) Address change
326.17(148C) Student physician assistant
326.18(148C) Recognition of an approved
program
326.19(17A,147,272C) License reactivation
326.20(17A,147,272C) License reinstatement

CHAPTER 327
PRACTICE OF PHYSICIAN ASSISTANTS

- 327.1(148C) Duties
327.2(148C) Prohibition
327.3 Reserved
327.4(148C) Remote medical site
327.5(147) Identification as a physician
assistant
327.6(147) Prescription requirements
327.7(147) Supplying—requirements for
containers, labeling, and
records

CHAPTER 328
CONTINUING EDUCATION FOR
PHYSICIAN ASSISTANTS

- 328.1(148C) Definitions
328.2(148C) Continuing education
requirements
328.3(148C,272C) Standards
328.4(148C,272C) Audit of continuing
education report
328.5(148C,272C) Automatic exemption
328.6(148C) Continuing education
exemption for disability
or illness
328.7(148C,272C) Grounds for disciplinary
action

CHAPTER 329
DISCIPLINE FOR PHYSICIAN
ASSISTANTS

- 329.1(148C) Definitions
329.2(148C,272C) Grounds for discipline
329.3(147,272C) Method of discipline
329.4(272C) Discretion of board

CHAPTER 330
FEES

- 330.1(148C) Fees

CHAPTERS 331 to 349
Reserved

CHAPTER 60
LICENSURE OF COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS,
MANICURISTS, NAIL TECHNOLOGISTS, AND INSTRUCTORS
OF COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Ch 149]

645—60.1(157) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of cosmetology arts and sciences examiners.

“*Certified laser product*” means a product which is certified by a manufacturer pursuant to the requirements of 21 Code of Federal Regulations (CFR) Part 1040.

“*Chemical exfoliation*” means the removal of surface epidermal cells of the skin by using only non-medical-strength cosmetic preparations consistent with labeled instructions and as specified by rule.

“*Core curriculum*” means the basic core life sciences curriculum that is required for completion of any course of study of the cosmetology arts and sciences except for manicuring.

“*Cosmetology arts and sciences*” means any or all of the following disciplines performed with or without compensation by a licensee: cosmetology, electrology, esthetics, nail technology and manicuring.

“*Depilatory*” means an agent used for the temporary removal of superfluous hair by dissolving it at the epidermal surface.

“*Exfoliation*” means the process whereby the superficial epidermal cells are removed from the skin.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Laser*” means light amplification by the stimulated emission of radiation.

“*Licensee*” means any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65, Iowa Administrative Code.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice cosmetology to an applicant who is or has been licensed in another state for 12 months during the last 24 months.

“*Mechanical exfoliation*” means the physical removal of surface epidermal cells by means that include but are not limited to brushing machines, granulated scrubs, peel-off masques, peeling creams or drying preparations that are rubbed off, and microdermabrasion.

“*Mentor*” means a licensee providing guidance in a mentoring program.

“*Mentoring*” means a program allowing students to experience cosmetology arts and sciences in a licensed salon under the guidance of a mentor.

“*Microdermabrasion*” means mechanical exfoliation using an abrasive material or apparatus to remove surface epidermal cells with a machine which is specified by rule.

“*Minor*” means an unmarried person who is under the age of 18 years.

“*Practice discipline*” means the practice of electrology, esthetics, nail technology, manicuring or cosmetology as recognized by the board of cosmetology arts and sciences examiners.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 60.17(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice cosmetology to an applicant who is currently licensed in another state and which state has a mutual agreement to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Testing service*” means a national testing service selected by the board.

“*Trainee*” means any person who completes the requirements listed in Iowa Code section 157.3 for licensure in the cosmetology arts and sciences, except for the examination, and who has a temporary permit.

645—60.2(157) Requirements for licensure.

60.2(1) Requirements for a license. An applicant for a license shall:

a. Complete a board-approved application form. Application forms may be obtained directly from the board-approved testing service. The name and address of the testing service may be obtained from the board’s Web site at www.idph.state.ia.us/licensure or by contacting the board office in the Iowa department of public health, professional licensure division. All applications shall be sent to the testing service.

b. Complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the testing service. Applications shall be complete before the candidate is eligible to sit for the examination.

c. Provide the appropriate fees with application to the testing service.

d. Present proof of graduation from high school or its equivalent to the testing service. If educated outside the United States, the applicant must attach an original evaluation of the applicant’s education for World Education Services (WES) or any other accredited evaluation service. An applicant may obtain an application for evaluation by contacting WES at (212)966-6311, or by writing to WES, P.O. Box 745, Old Chelsea Station, New York, New York 10113-0745. An applicant may also provide documentation by attaching a copy of acceptable GED points, a diploma or TABE scores.

e. Present a copy of the diploma or an official transcript of grades in the practice discipline for which the applicant is requesting licensure. This shall be sent to the testing service with the application, showing completion of training at a school approved by the board of cosmetology arts and sciences examiners.

f. Pass the theory examination for the particular practice discipline with a score of 75 percent or greater.

g. Pass the Iowa law (jurisprudence) examination with a score of 75 percent or greater.

60.2(2) Requirements for an instructor’s license. An applicant for an instructor’s license shall:

a. Submit completed application and fees to the testing service;

b. Be a graduate of an accredited high school or the equivalent thereof;

c. Be licensed in the state of Iowa in the specific practice discipline to be taught or be licensed as a cosmetologist who possesses the skill and knowledge required to instruct in that practice discipline;

d. Provide documentation of completion of 1,000 hours of instructor’s training with curriculum content to be determined by the board or two years’ active practice in the field of cosmetology within six years prior to application;

e. Submit proof of attendance at an advanced instructor’s institute prescribed by the board;

f. Pass an instructor’s and Iowa law (jurisprudence) examination; and

g. Submit proof of 60 hours of practical experience, excluding school hours, in the area of electrolysis prior to application for an instructor of electrolysis license.

60.2(3) Conditions. The following conditions apply for all cosmetology arts and sciences licenses.

- a. Candidates eligible for testing may contact the board-approved testing service to arrange a testing time.
- b. No application shall be considered until the requested supporting documents and fee have been received by the testing service.
- c. Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.
- d. The licensure fee is nonrefundable.
- e. Licensees who were issued their initial licenses within six months prior to the license renewal beginning date shall not be required to renew their licenses until the renewal month two years later.

645—60.3(157) Criteria for licensure in specific practice disciplines.

60.3(1) A cosmetology license is not a requirement for an electrology, esthetics, nail technology or manicurist license.

60.3(2) Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline.

60.3(3) Theory hours earned in each practice discipline of cosmetology arts and sciences may be used in applying for a cosmetology license.

645—60.4(157) Practice-specific training requirements.

60.4(1) A licensed esthetician who holds a permanent license in good standing may administer microdermabrasion or a certified laser product after the esthetician has submitted to the board office an attestation as described in 60.4(4) on a form approved by the board and the appropriate fees as specified in 645—Chapter 62 and has received board approval.

60.4(2) A licensed cosmetologist who holds a permanent license in good standing may administer chemical peels or utilize microdermabrasion or a certified laser product after the cosmetologist has submitted to the board office an attestation as described in 60.4(4) on a form approved by the board and the appropriate fees as specified in 645—Chapter 62 and has received board approval. A cosmetologist who receives an initial license in Iowa after July 1, 2005, shall not provide chemical peels, practice microdermabrasion procedures or use certified laser products.

60.4(3) A licensed electrologist who holds a permanent license in good standing may utilize a certified laser product for the purpose of hair removal after the electrologist has submitted to the board office an attestation as described in 60.4(4) on a form approved by the board and the appropriate fees as specified in 645—Chapter 62 and has received board approval.

60.4(4) The attestation required in subrules 60.4(1), 60.4(2) and 60.4(3) shall include evidence of training and certification specific to each procedure or device to be used. A licensee who includes utilization of a certified laser product in the attestation shall provide evidence that the licensee's laser product training received included a safety training component which provided a thorough understanding of the procedures being performed. The training program shall address fundamentals of non-beam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

60.4(5) The board shall approve a licensee to provide services or utilize a certified laser product as specified in the attestation and application required by this rule upon board determination that a licensee has submitted a completed application as required by subrule 60.4(1), 60.4(2) or 60.4(3), provided appropriate evidence supporting the licensee's training and certification in the attestation, and submitted applicable fees. The applicant shall receive a certification card following board approval. The certification card and the license to practice cosmetology arts and sciences shall be displayed together in a conspicuous public place at the licensee's primary site of practice.

60.4(6) A licensee who has an attestation on file with the board and who continues to utilize the procedure or device specified in the attestation shall meet the requirements of 645—Chapter 64 at the time of license renewal. A minimum of one hour of continuing education in the area of each procedure or device for which the licensee has received board certification shall be required beginning with the renewal cycle of April 1, 2006, to March 31, 2008. Continuing education credit in the area of the procedure or device is in addition to the eight hours of continuing education required for renewal of the license.

60.4(7) A licensed cosmetologist, esthetician, or electrologist who provides services related to the use of a certified laser product, chemical peel, or microdermabrasion shall submit a report to the board within 30 days of any incident in which provision of such services resulted in physical injury requiring medical attention. Failure to comply with this requirement shall result in disciplinary action by the board.

The report shall include the following:

- a. Description of procedures;
- b. Description of the physical condition of client;
- c. Description of the adverse occurrence, including:
 - (1) Symptoms of any complications including, but not limited to, onset and type of symptoms;
 - (2) Description of the services provided that caused the situation;
 - (3) Description of the procedure that was followed by the licensee;
- d. Description of the client's condition on termination of any procedures undertaken;
- e. If a client is referred to a physician, a statement providing where and to whom if known;
- f. Copy of consent form.

60.4(8) Failure to report. Failure to comply with subrule 60.4(7) when the adverse occurrence is related to the use of any procedure or device noted in the attestation may result in the licensee's loss of authorization to administer the procedure or device noted in the attestation or may result in other sanctions provided by law.

60.4(9) Failure to comply with this rule is grounds for discipline.

645—60.5(157) Licensure restrictions relating to practice.

60.5(1) A certified laser product shall only be used on surface epidermal layers of the skin except for hair removal.

60.5(2) A laser hair removal product shall not be used on a minor unless the minor is accompanied by a parent or guardian and then shall be used only under general supervision of a physician.

60.5(3) Persons licensed under Iowa Code chapter 157 shall not administer any practice of removing skin by means of a razor-edged instrument.

60.5(4) With the exception of hair removal, manicuring, and nail technology services, persons licensed under Iowa Code chapter 157 shall not administer any procedure in which human tissue is cut, shaped, vaporized, or otherwise structurally altered. Manicurists and nail technologists may only cut the cuticle.

645—60.6(157) Consent and reporting requirements. A licensed esthetician, cosmetologist, or electrologist prior to providing services relating to a certified laser product, chemical peel, or microdermabrasion shall obtain from a client a consent form that:

1. Specifies in general terms the nature and purpose of the procedure(s);
2. Lists known risks associated with the procedure(s) if reasonably determinable;
3. States an acknowledgment that disclosure of information has been made and that questions asked about the procedure(s) have been satisfactorily answered;
4. Includes a signature of either the client for whom the procedure is performed or, if that client for any reason lacks legal capacity to consent, includes the signature of a person who has legal authority to consent on behalf of that client in those circumstances.

645—60.7(157) Licensure by endorsement. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the testing service a completed application and appropriate fee;
2. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Verifications of current licensure in the practice discipline in another state for at least 12 months in the 24-month period preceding the submission of the application must be sent from each state, territory, province or foreign country or the District of Columbia. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
 - Licensee's name;
 - Date of initial licensure;
 - Current licensure status; and
 - Any disciplinary action taken against the license.
3. Submits a copy of the passing score on the examinations of the board-approved testing service; and
4. Passes the Iowa law (jurisprudence) examination with a passing score of 75 percent or greater.

645—60.8(157) License renewal.

60.8(1) The biennial license renewal period for a license to practice cosmetology arts and sciences shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

60.8(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

60.8(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—64.2(157). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Submit the completed renewal application and renewal fee before the license expiration date.
- c. Licensees currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state where the licensee practices. Those licensees living and practicing exclusively in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due.

60.8(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

60.8(5) 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 645—subrule 62.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

60.8(6) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice cosmetology arts and sciences in Iowa until the license is reactivated. A licensee who practices cosmetology arts and sciences in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—60.9(157) Temporary permits to practice cosmetology arts and sciences. An applicant who is applying for initial licensure and is not licensed in another state and who has met the requirements for licensure except for the written examinations may apply for a temporary permit to practice cosmetology arts and sciences. The temporary permit shall be valid from the date the application is completed until the applicant passes the examination in the practice discipline for which the applicant is seeking licensure. The temporary permit shall be valid for a maximum of 90 days from the date of issuance. The temporary permit holder shall practice under direct supervision of a licensee. After 90 days the temporary permit shall be invalid and the person may not practice in the cosmetology arts and sciences.

The temporary permit shall be revoked if an applicant fails either the theory examination or the Iowa law (jurisprudence) examination twice. The applicant shall submit the temporary permit to the testing service before sitting for another examination.

645—60.10(157) Demonstrator's permit. The board may issue a demonstrator's permit for the purpose of demonstrating cosmetology arts and sciences to the consuming public.

1. A demonstrator's permit shall be valid for a salon, person or an event. The location, purpose and duration shall be stated on the permit.
2. A demonstrator's permit shall be valid for no more than ten days.
3. A completed application shall be submitted on a form provided by the board at least 30 days in advance of the intended use dates.
4. An application fee shall be submitted as set forth in these rules.
5. No more than four permits shall be issued to any applicant during a calendar year.

645—60.11(157) License renewal.

60.11(1) The biennial license renewal period for a license to practice cosmetology arts and sciences shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis.

60.11(2) A renewal of license to practice as a cosmetology arts and sciences licensee application and continuing education report form shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay the biennial renewal fees on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal beginning date will not be required to renew their licenses until the next renewal two years later.

c. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of eight hours of continuing education per biennium for each subsequent license renewal period.

d. Persons licensed to practice as cosmetology arts and sciences licensees shall keep their renewal licenses and certifications displayed in a conspicuous public place at the primary site of practice. The licensee's current wallet card shall be in the licensee's immediate possession.

e. Licensees currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. Those licensees living and practicing exclusively in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due.

60.11(3) Late renewal. If the renewal fees, continuing education report and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration shall be charged.

60.11(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—60.12(147) Reissued 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 645—62.1(147,157).

645—60.13(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—60.14(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—60.15(147) Duplicate certificate or wallet card.

60.15(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued under such circumstances.

60.15(2) A duplicate wallet card or certificate shall be issued upon receipt of a completed application and receipt of the fee as specified in 645—subrule 62.1(5).

60.15(3) If the board receives a completed application stating that the licensee has not received the wallet card or certificate within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—60.16(272C) License denial.

60.16(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing, by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

60.16(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

60.16(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—60.17(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

60.17(1) Submit a reactivation application on a form provided by the board.

60.17(2) Pay the reactivation fee that is due as specified in rule 645—62.1(147,157).

60.17(3) Provide verification of current competence to practice cosmetology arts and sciences by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 12 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education within two years of application for reactivation; and

(3) Verification of passing the Iowa law (jurisprudence) examination with a score of 75 percent or greater within two years of application for reactivation.

60.17(4) Licensees who are instructors of cosmetology arts and sciences shall obtain an additional 8 hours of continuing education in teaching methodology.

645—60.18(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 60.17(17A,147,272C) prior to practicing cosmetology arts and sciences in this state.

These rules are intended to implement Iowa Code chapters 272C and 157.

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CHAPTER 62

FEES

[Prior to 7/29/87, Health Department[470] Ch 149]

[Prior to 12/23/92, see 645—60.14(157) for Fees]

645—62.1(147,157) License fees. All fees are nonrefundable.

62.1(1) License fee for license to practice cosmetology arts and sciences, licensure by endorsement, licensure by reciprocity, or an instructor's license shall be \$50.

62.1(2) Biennial license renewal fee for each license for each biennium shall be \$50.

62.1(3) Late fee for failure to renew before expiration shall be \$50.

62.1(4) Reactivation fee is \$100.

62.1(5) Duplicate or reissued wallet card or license fee shall be \$10.

62.1(6) Fee for verification of license shall be \$10.

62.1(7) Returned check fee shall be \$15.

62.1(8) Disciplinary hearing fee shall be a maximum of \$75.

62.1(9) Temporary permit fee shall be \$10.

62.1(10) Theory examination fee shall be \$70.

62.1(11) Fee for retaking the theory examination shall be \$70.

62.1(12) Iowa law (jurisprudence) examination fee shall be \$30.

62.1(13) Fee for retaking the Iowa law (jurisprudence) examination shall be \$30.

62.1(14) Fee for license to conduct a school teaching cosmetology arts and sciences shall be \$500.

62.1(15) Fee for renewal of a school license shall be \$225 annually.

62.1(16) Salon license fee shall be \$70.

62.1(17) Renewal of a salon license fee shall be \$70 biennially.

62.1(18) Rescinded IAB 3/6/02, effective 4/10/02.

62.1(19) Rescinded IAB 3/5/03, effective 4/9/03.

62.1(20) Demonstrator's temporary permit fee shall be \$35 for the first day and \$10 for each day thereafter that the permit is valid.

62.1(21) Initial fee for certification to administer microdermabrasion or utilize a certified laser product shall be \$25 for each type of procedure or a certified laser product.

62.1(22) Initial fee for certification of cosmetologists to administer chemical peels shall be \$25.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

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CHAPTER 64
CONTINUING EDUCATION FOR COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Ch 151]
[Prior to 12/23/92, see 645—Chapter 62]

645—64.1(157) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of cosmetology arts and sciences examiners.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65, Iowa Administrative Code.

“*Prescribed practice*” means an area of specialty within the scope of cosmetology arts and sciences.

645—64.2(157) Continuing education requirements.

64.2(1) The biennial continuing education compliance period shall extend for a period that begins on April 1 of one year and ends on March 31 two years later. All licenses shall be renewed on a biennial basis.

Prior to April 30, 2006, each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 8 hours of board-approved continuing education for each license held, of which 4 hours shall be in the prescribed practice discipline. Licensees who are instructors of cosmetology arts and sciences shall obtain 16 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology.

Beginning April 30, 2006, each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 12 hours of board-approved continuing education for each license held, of which 4 hours shall be in the prescribed practice discipline. Licensees who are instructors of cosmetology arts and sciences shall obtain 20 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology.

a. One-half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an even-numbered year to March 31 of the next even-numbered year.

b. One-half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an odd-numbered year to March 31 of the next odd-numbered year.

c. Licensees currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. Those licensees living and practicing in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due.

64.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of eight hours of continuing education per biennium for each subsequent license renewal.

64.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

64.2(4) No hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

64.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—64.3(157,272C) Standards.

64.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

64.3(2) Specific criteria.

a. Continuing education hours of credit may be obtained by attending continuing education activities of an approved sponsor.

b. The licensee may attend programs on product knowledge, methods, and systems. Continuing education shall be directly related to the technique and theory specific to the practice of cosmetology arts and sciences. Business classes specific to owning or managing a salon are acceptable. No direct selling of products is allowed as part of a continuing education offering.

c. The licensee may participate in continuing education courses/programs that are approved by the board of barber examiners providing criteria in these rules are met.

d. The licensee may participate in independent study as defined in 645—64.1(157). A maximum of two hours of independent study per biennium will be allowed. Independent study must be related to either Iowa cosmetology law and administrative rules or sanitation.

e. In addition to fulfilling the requirements in 64.2(1), those persons holding an instructor's license must complete a minimum of eight hours of continuing education approved by the board in the area of teaching technology.

f. The licensee shall obtain at least four hours in each area of prescribed practice for each cosmetology license held.

g. A licensee who has an attestation on file with the board as required in 645—subrule 60.4(6) and who continues to utilize the procedure or device specified in the attestation shall meet the requirements of 645—Chapter 64 at the time of license renewal. A minimum of 1 hour of continuing education in the area of each procedure or device for which the licensee has received board certification shall be required beginning with the renewal cycle of April 1, 2006, to March 31, 2008. Continuing education credit in the area of the procedure or device is in addition to the 12 hours of continuing education required for renewal of the license.

h. Continuing education shall be obtained by attending programs that meet the criteria in subrule 64.3(1) and are approved or offered by the following organizations. Other individuals or groups may offer through one of the organizations listed in this paragraph continuing education programs that meet the criteria in rule 645—64.3(157).

- (1) National, state or local associations of cosmetology arts and sciences;
- (2) Schools and institutes of cosmetology arts and sciences;
- (3) Universities, colleges or community colleges;
- (4) National, state or local associations of barbers;
- (5) Barber schools or institutes;
- (6) Manufacturers of laser or microdermabrasion products;
- (7) Institutes of laser technology.

i. Two hours of continuing education per biennium must be specific to Iowa cosmetology law and administrative rules.

645—64.4(157,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

64.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

64.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

64.4(3) For auditing purposes, all licensees must retain the information identified in subrule 64.4(2) for two years after the biennium has ended.

64.4(4) Information identified in subrule 64.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

64.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

64.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—64.5(157,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—64.6(157,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

- 64.6(1)** Failure to cooperate with a board audit.
- 64.6(2)** Failure to meet the continuing education requirement for licensure.
- 64.6(3)** Falsification of information on the license renewal form.
- 64.6(4)** Falsification of continuing education information.

645—64.7(157,272C) Continuing education waiver for active practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—64.8(157,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—64.9(157,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

64.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

64.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

64.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—64.10(157,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—64.11(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

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65.2(32) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a client or coworker.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

65.2(33) Performing any of those practices coming within the jurisdiction of the board pursuant to Iowa Code chapter 157, with or without compensation, in any place other than a licensed salon, a licensed school of cosmetology arts and sciences, or a licensed barbershop as defined in Iowa Code section 158.1. EXCEPTION: A licensee may practice at a location that is not a licensed salon or school of cosmetology arts and sciences when extenuating circumstances related to the physical or mental disability or death of a customer prevent the customer from seeking services at the licensed salon or school.

65.2(34) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

65.2(35) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—65.3(157,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—65.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;

5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—65.5(157) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 157.13(1). In addition to the procedures set forth in Iowa Code chapter 157, this chapter shall apply.

65.5(1) Unlawful practices. Practices by an unlicensed person or establishment which are subject to civil penalties include, but are not limited to:

- a. Acts or practices by unlicensed persons which require licensure to practice cosmetology arts and sciences under Iowa Code chapter 157.
- b. Acts or practices by unlicensed establishments which require licensure as a salon or school of cosmetology arts and sciences under Iowa Code chapter 157.
- c. Use or attempted use of a licensee's certificate or use or attempted use of an expired, suspended, revoked, or nonexistent certificate.
- d. Falsely impersonating a person licensed under Iowa Code chapter 157.
- e. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
- f. Other violations of Iowa Code chapter 157.
- g. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

65.5(2) Investigations. The board is authorized by Iowa Code subsection 17A.13(1) and Iowa Code chapter 157 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

65.5(3) Subpoenas. Pursuant to Iowa Code section 17A.13(1) and Iowa Code chapter 157, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel 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 the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in 645—9.5(17A,272C).

65.5(4) Notice of intent to impose civil penalties. The notice of the board's intent to issue an order to require compliance with Iowa Code chapter 157 and to impose a civil penalty shall be served upon the nonlicensee by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice shall include the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 157.
- e. Notice of the nonlicensee's right to a hearing and the time frame in which the hearing must be requested.
- f. The address to which written request for hearing must be made.

65.5(5) Requests for hearings.

a. Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa Rule of Civil Procedure 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

b. If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 157, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

c. If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees.

d. A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 157 at any stage of the proceeding upon mutual consent of the board.

e. The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published. Hearings shall be open to the public.

65.5(6) Factors for board consideration. The board may consider the following when determining the amount of civil penalty to impose, if any:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to or resulting in the violation.

c. The severity of the violation and the risk of harm to the public.

d. The economic benefits gained by the violator as a result of noncompliance.

e. The welfare or best interest of the public.

65.5(7) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement as provided in Iowa Code chapter 157.

65.5(8) Judicial review.

a. A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

b. The board shall notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

c. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

d. An action to enforce an order under this rule may be joined with an action for an injunction pursuant to Iowa Code section 147.83.

These rules are intended to implement Iowa Code chapters 147, 157 and 272C.

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**CHAPTER 66
AGENCY PROCEDURE FOR RULE MAKING**

Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 67
PETITIONS FOR RULE MAKING**

Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 68
DECLARATORY RULINGS**

Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 69
PUBLIC RECORDS AND FAIR
INFORMATION PRACTICES**

Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 70
CHILD SUPPORT NONCOMPLIANCE**

Rescinded IAB 6/16/99, effective 7/21/99

**CHAPTER 71
IMPAIRED PRACTITIONER REVIEW COMMITTEE**

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**CHAPTERS 72 to 78
Reserved**

**CHAPTER 79
BOARD OF DIETETIC EXAMINERS**

[Prior to 5/15/88, Health Department[470]—Ch 162]

[Prior to 9/19/01, see 645—Chapter 80]

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CHAPTER 121
LICENSURE OF HEARING AID DISPENSERS
[Prior to 5/29/02, see 645—120.2(154A) to 120.6(154A) and 120.10(154A)]

645—121.1(154A) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of examiners for the licensing and regulation of hearing aid dispensers.

“*Department*” means the department of public health.

“*Dispense*” or “*sell*” means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or dispenser, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Hearing aid dispenser*” means any person engaged in the fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means a license issued by the state to hearing aid dispensers.

“*Licensee*” means any person licensed to practice as a hearing aid dispenser in the state of Iowa.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice as a hearing aid dispenser to an applicant who is or has been licensed in another state.

“*National examination*” means the written licensing examination of the International Hearing Society or its successor organization.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 121.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice as a hearing aid dispenser to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of examiners for licensing and regulation of hearing aid dispensers to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Temporary permit*” means a permit issued while the applicant is in training to become a licensed hearing aid dispenser.

“*Trainee*” means the holder of a temporary permit.

645—121.2(154A) Temporary permits.

121.2(1) An applicant shall send a completed application and fee to the board office. The application must be accompanied by a statement from the employer, which includes the following information:

- a. The type of supervision which shall be provided to the trainee;
- b. A list of the subjects to be covered;
- c. The books and other training materials to be used for training; and
- d. An outline of the training program to be followed in preparing the trainee for examination.

121.2(2) A temporary permit is valid for one year and shall not be renewable.

121.2(3) The board reserves the right to deny an application for a temporary permit or rescind a temporary permit once issued.

121.2(4) The licensed hearing aid dispenser employing the holder of a temporary permit shall be responsible for the following:

- a. Training of the temporary permit holder;
- b. Evaluating the audiograms and determining which hearing aid and ear mold will best compensate for hearing loss of a particular person; and
- c. Notifying the board within 15 days of the termination of the holder of a temporary permit.
- d. Submitting a report on a board-approved form verifying completion of the supervision and training requirements in accordance with 121.2(1).

645—121.3(154A) Supervision requirements. The supervisor's report must provide assurance of completion of training pursuant to 121.2(1).

121.3(1) Supervision of temporary permit holders. The supervisor(s) shall:

- a. Have a current hearing aid dispenser license that has been valid for the immediately preceding 24 months;
- b. Have two years of actual experience in testing, fitting, and dispensing of hearing aids;
- c. Supervise not more than three trainees with temporary permits at the same time;
- d. For the first 90 days, provide a minimum of 20 hours of direct supervision per week in the physical presence of the trainee;
- e. Provide direct supervision of the trainee before completion of the first 90 days for any client activity that would require dispensing of hearing aids, including evaluation, selection, fitting or selling of hearing aids; and
- f. Cosign all audiometric evaluations and contracts processed by the trainee for the duration of the temporary permit.
- g. Submit, on a board-approved form, a final, completed supervision report for trainees prior to taking the board-approved examination.

121.3(2) A trainee with a temporary permit must notify the board in writing within ten days of an interruption of training due to loss of supervision. The trainee shall, within 30 days, obtain a replacement supervisor for continuance of the training period and shall obtain and submit to the board a statement signed by the replacement supervisor, which states that the training program will be maintained.

121.3(3) If a statement by the replacement supervisor is not submitted, the trainee shall revert to new trainee status.

645—121.4(154A) Requirements for initial licensure. The following criteria shall apply to licensure:

121.4(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Hearing Aid Dispensers, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

121.4(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

121.4(3) Each application shall be accompanied by the appropriate fees, which include the following:

- a. Application fee payable to the Board of Hearing Aid Dispensers; and
- b. Examination fee payable to the International Hearing Society.

121.4(4) Examination score results must be received from the testing service.

121.4(5) Each applicant must successfully pass the national examination.

121.4(6) Examination candidates who hold a temporary permit are required to have a completed supervisory report in accordance with paragraph 121.3(1)“g.”

121.4(7) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal month two years later.

121.4(8) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

121.4(9) Notification of eligibility for licensure shall be sent to the licensee by the board.

645—121.5(154A) Examination requirements.

121.5(1) The following criteria shall apply to the written examination:

a. The supporting data and documentation must be received at least ten business days prior to the examination with check or money order made payable to the International Hearing Society in the amount specified in the application for the examination fee;

b. Applicants must pass the national examination. The passing score is set by the International Hearing Society.

121.5(2) Applicants who fail the national examination three times must apply to the board to retake the examination.

645—121.6(154A) Licensure by endorsement. An applicant who has been a licensed hearing aid dispenser under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

121.6(1) Submits to the board a completed application;

121.6(2) Pays the licensure fee;

121.6(3) Shows evidence of licensure requirements that are similar to those required in Iowa;

121.6(4) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a. Licensee’s name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

121.6(5) Provides official verification of one of the following:

a. A passing score on the national examination. For the ten-part examination, the passing score is 70 percent on each subject or 75 percent overall. The International Hearing Society sets the passing score for the five-part competency examination;

b. A passing score on an examination that the board determines is equivalent to the national examination; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences; and

121.6(6) Provides evidence of:

a. Completing a minimum of 32 continuing education hours within the 24 months prior to application; or

b. Continuing education certificates that verify that the minimum hours of continuing education required by a state(s) in which the licensee is currently licensed have been met; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences.

645—121.7(154A) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of hearing aid dispensers.

645—121.8(154A) Display of license. Persons licensed as hearing aid dispensers shall display their original licenses in a conspicuous public place at the primary site of practice.

645—121.9(154A) License renewal.

121.9(1) The biennial license renewal period for a license to dispense hearing aids shall begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. All licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

121.9(2) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—122.2(154A) and the mandatory reporting requirements of subrule 121.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

121.9(3) 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 645—subrule 125.1(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

121.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e." Training may be completed through separate courses as identified in paragraphs "a" and "b" 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.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. 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 an exemption 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 645—Chapter 122.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

121.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

121.9(6) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a hearing aid dispenser in Iowa until the license is reactivated. A licensee who practices as a hearing aid dispenser in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—121.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—121.11(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—121.12(154A,147) Duplicate certificate or wallet card.

121.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed.

121.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application and receipt of the fee as specified in rule 645—125.1(147).

121.12(3) If the board receives a completed application stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—121.13(272C) License denial.

121.13(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

121.13(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

121.13(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—121.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

121.14(1) Submit a reactivation application on a form provided by the board.

121.14(2) Pay the reactivation fee that is due as specified in 645—subrule 125.1(6).

121.14(3) Provide verification of current competence to practice as a hearing aid dispenser by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 32 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 64 hours of continuing education within two years of application for reactivation.

645—121.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 121.14(17A,147,272C) prior to practicing as a hearing aid dispenser in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154A and 272C.

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CHAPTER 122
CONTINUING EDUCATION FOR HEARING AID DISPENSERS

645—122.1(154A) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of examiners for the licensing and regulation of hearing aid dispensers.

“*Continuing education*” means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a hearing aid dispenser in the state of Iowa.

645—122.2(154A) Continuing education requirements.

122.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid dispenser in this state shall be required to complete a minimum of 32 hours of continuing education approved by the board.

122.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 32 hours of continuing education per biennium for each subsequent license renewal.

122.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

122.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

122.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—122.3(154A,272C) Standards.

122.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of the presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, place, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

122.3(2) Specific criteria. Continuing education hours of credit may be obtained by completing the following:

a. Academic coursework if the coursework is offered by an accredited postsecondary educational institution. The maximum number of continuing education hours of credit for academic coursework per biennium is 15 hours with:

1 academic semester hour = 15 continuing education hours; and

1 academic quarter hour = 10 continuing education hours.

b. A maximum of 4 hours of credit for telnet courses. Independent study telnet courses are acceptable only when an on-site monitor is present.

c. Attending programs, conferences, or business, technical, or professional seminars which enhance a licensee's ability to provide quality hearing health care services.

645—122.4(154A,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

122.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

122.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

122.4(3) For auditing purposes, all licensees must retain the information identified in subrule 122.4(2) for two years after the biennium has ended.

122.4(4) Information identified in subrule 122.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

122.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

122.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—122.5(154A,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—122.6(154A,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

122.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

122.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

122.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—122.7(154A,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

122.7(1) Failure to cooperate with a board audit.

122.7(2) Failure to meet the continuing education requirement for licensure.

122.7(3) Falsification of information on the license renewal form.

122.7(4) Falsification of continuing education information.

645—122.8(154A,272C) Continuing education waiver for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—122.9(154A,272C) Continuing education exemption for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—122.10(154A,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—122.11(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154A.

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CHAPTER 123

Reserved

124.2(30) Failure to report a change of name or address within 30 days after the occurrence.

124.2(31) Representing oneself as a licensed hearing aid dispenser when one's license has been suspended or revoked, or when one's license is lapsed or has been placed on inactive status.

124.2(32) Permitting another person to use the licensee's license for any purpose.

124.2(33) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

124.2(34) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient, client, or coworker.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- e. Being adjudged mentally incompetent by a court of competent jurisdiction.

124.2(35) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

124.2(36) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—124.3(154A,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—124.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and

7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

These rules are intended to implement Iowa Code chapters 147, 154A and 272C.

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CHAPTER 125

FEES

[Prior to 5/29/02, see 645—120.9(154A)]

645—125.1(147,154A) License fees. All fees are nonrefundable.

125.1(1) Application fee for a license to practice by examination, endorsement, and reciprocity is \$130.

125.1(2) Examination fee (check or money order made payable to the International Hearing Society) is \$95.

125.1(3) Renewal of license fee is \$50.

125.1(4) Temporary permit fee is \$35.

125.1(5) Late fee for a lapsed license is \$50.

125.1(6) Reactivation fee is \$100.

125.1(7) Duplicate or reissued license certificate or wallet card fee is \$10.

125.1(8) Verification of license fee is \$10.

125.1(9) Returned check fee is \$15.

125.1(10) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapter 154A.

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CHAPTERS 126 to 128

Reserved

CHAPTER 129

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 8/25/99, effective 9/29/99

CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of psychology examiners.

“*Certified health service provider in psychology*” means a person who works in a clinical setting, is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another state.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*National examination*” means the Examination for Professional Practice in Psychology (EPPP).

“*Organized health service training program*” means a training program designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is ensuring breadth and quality of training.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 240.18(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice psychology to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of psychology examiners to license persons who have the same or similar qualifications to those required in Iowa.

“*Recognized health service setting*” means a setting in which the delivery of direct preventive, assessment, and therapeutic intervention services are provided to individuals whose growth, adjustment or functioning is actually impaired or is demonstrably at high risk of impairment. The delivery of the aforementioned services includes, but is not limited to, the diagnosis or evaluation and treatment of mental illness and nervous disorders, excluding those mental illnesses and nervous disorders which are established as primarily of biological etiology with the exception of the treatment of the psychological and behavioral aspects of those mental illnesses and nervous disorders.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Supervisor*” means a licensed psychologist who meets the qualifications stated in these rules.

“*Testing service*” means Professional Examination Service (PES).

645—240.2(154B) Requirements for licensure.

240.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Psychology Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. Each application shall be accompanied by the appropriate fees payable to the Board of Psychology Examiners. The fees are nonrefundable.

d. No application will be considered by the board until:

(1) Official copies of academic transcripts sent directly from the school to the board of psychology examiners have been received by the board;

(2) Satisfactory evidence of the candidate's qualifications has been supplied in writing on the prescribed forms by the candidate's supervisors; and

(3) A Statement of Competency form, which may be obtained from the board of psychology examiners, has been submitted.

(4) Rescinded IAB 9/4/02, effective 10/9/02.

e. An applicant shall successfully pass the national and Iowa jurisprudence examinations.

f. The applicant shall have the national examination score sent directly from the testing service to the board.

g. Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

240.2(2) and **240.2(3)** Rescinded IAB 9/4/02, effective 10/9/02.

645—240.3(154B) Educational qualifications. A new applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

240.3(1) The degree in psychology shall be granted by an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association or entity in other regions of the United States.

240.3(2) The program from which the doctoral degree in psychology is granted must be accredited by the American Psychological Association or shall meet all the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. A program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

b. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

d. The program must be an integrated, organized sequence of study.

e. There must be an identifiable psychology faculty on site sufficient in size to ensure that the ratio of faculty to students is adequate for instruction. The faculty must also have sufficient breadth in order to ensure that the scope of knowledge in psychology provides for adequate instruction. There must be a psychologist responsible for the program.

f. The program must have an identifiable body of students who are matriculated in that program for a degree.

g. The program must include supervised practicum, internship, and field or laboratory training appropriate to the practice of psychology.

h. The curriculum shall encompass a minimum of three academic years of graduate study.

i. The program shall require a minimum of one year's residency at the educational institution granting the doctoral degree.

j. In addition to instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the following substantive content areas. This typically will be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in each of these four substantive content areas:

(1) Biological bases of behavior: physiological psychology, comparative psychology, neuro-psychology, sensation and perception, psychopharmacology;

(2) Cognitive-affective bases of behavior: learning, thinking, motivation, and emotion;

(3) Social bases of behavior: social psychology, group processes, organizational and systems theory; and

(4) Individual differences: personality theory, human development, and abnormal psychology.

k. In addition, all professional education programs in psychology will include requirements in specialty areas.

240.3(3) As of January 1, 2006, at the time of an applicant's graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

(3) Designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project as a doctoral program in psychology; or

b. The applicant must hold a specialty diploma by examination from the American Board of Professional Psychology.

240.3(4) Foreign-trained psychologists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, Florida 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—240.4(154B) Examination requirements. An applicant must pass the national examination and Iowa jurisprudence examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of subrule 240.2(1), paragraphs "a" to "c"; and

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology examiners.

240.4(2) Notification of an applicant's eligibility for the examination shall be sent by the board office to the testing service.

240.4(3) The EPPP passing score shall be utilized as the Iowa passing score.

240.4(4) The board of psychology examiners shall mail examination results to the applicant.

240.4(5) An applicant shall be required to pass a jurisprudence examination covering the Iowa law and rules for psychology prior to being licensed in Iowa. A 70 percent score shall be required to pass this examination.

645—240.5(154B) Title designations.

240.5(1) Applicants for licensure who have met educational requirements but have not yet passed the EPPP may be designated “psychology associate” or “associate in psychology.” The title “psychology associate” or “associate in psychology” shall not be used except in the person’s employment and supervision that meet the requirements of subrule 240.6(2).

240.5(2) Applicants for licensure who have passed the EPPP and who are fulfilling the experience requirements specified herein for licensure may be designated “psychology resident” or “resident in psychology.” The designation of “resident” shall not be used except in the employment and supervised experience that meet the requirements of subrule 240.6(2).

240.5(3) Notwithstanding other provisions of these rules, applicants for licensure who are engaged in organized health service training programs as specified in rule 645—240.7(154B) may be designated “psychology intern” or “intern in psychology” during their time in training.

240.5(4) Persons licensed in another state who are in the process of seeking licensure in Iowa and who are being supervised until obtaining an Iowa license may use the designation “Licensed Psychologist, (name of state)” for a period of up to one year from the date of application.

645—240.6(154B) Supervised professional experience.

240.6(1) The supervised professional experience shall:

- a. Be at least one year or a minimum of 1500 hours of supervised professional experience;
- b. Apply the principles of psychology;
- c. Be supervised by a licensed psychologist as specified in subrule 240.6(2) or rule 240.9(154B);
- d. Be performed competently as attested to by the supervisor;
- e. Have the fees and receipt of payment schedule remain the sole domain of the employing agency or supervising psychologist.

240.6(2) Requirements.

- a. To meet the requirements of the supervised professional experience, the supervisee must:
 - (1) Meet a minimum of one hour per week, face to face and individually with the supervisor;
 - (2) Have training that is appropriate to the functions to be performed;
 - (3) Work in the same physical setting as the supervisor unless otherwise approved by the board;
 - (4) Offer work in the name of the supervising psychologist;
 - (5) Begin the experience after all academic requirements for the doctoral degree are met and when all degree requirements are verified in writing;
 - (6) Not apply professional employment that occurs prior to meeting the doctoral academic requirements to the supervised professional experience;
 - (7) Compute part-time employment on a prorated basis for the supervised professional experience; and
 - (8) Have the background, training, and experience that is appropriate to the functions performed.
- b. To meet the requirements of the supervised professional experience, the supervisor must:
 - (1) Be a licensed psychologist as specified in rule 240.2(154B) or 240.9(154B);
 - (2) Complete the supervision form provided by the board;
 - (3) Meet a minimum of one hour per week, face to face and individually with the supervisee;
 - (4) Provide training that is appropriate to the functions to be performed;
 - (5) Work in the same physical setting as the supervisee unless otherwise approved by the board;
 - (6) Have work offered in the name of the supervising psychologist;
 - (7) Have no more than three full-time persons associated with the supervisor as listed on the supervisor report form obtained from the board;

- (8) Not provide group supervision as part of this experience;
- (9) Not supervise any psychological practice or permit the supervisor's supervisee to engage in any psychological practice which the supervisor cannot perform competently; and
- (10) Be responsible for determining competency of the work performed by the supervisee and the designation of the title of the supervisee.

240.6(3) Employment experience which is offered to satisfy one provision of the law may not be simultaneously offered to satisfy the educational provisions of the law. For example, employment experiences which are part of the required preparation for the doctoral degree will be applicable only to the doctoral degree requirements and may not be simultaneously offered to satisfy the supervised professional experience requirement.

240.6(4) Professional employment experience acquired by the applicant between the time all requirements were fulfilled for the doctoral degree and the time of the actual conferral of the degree may be credited toward the professional employment experience requirements for licensing, provided that the date of completion of all degree requirements is verified in writing by an appropriate academic official. Verification must come directly to the board from the academic official.

240.6(5) Persons providing psychological services who are not licensed by the board of psychology examiners shall be under the direct and continuing administrative and professional direction of a psychologist licensed by the board.

645—240.7(154B) Certified health service provider in psychology.

240.7(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least two years of clinical experience in a recognized health service setting or meet the standards of the National Register of Health Service Providers in Psychology. Two years of clinical experience means two years of supervised experience in health service in psychology, of which at least one year is in an organized health service training program as defined in subrule 240.7(2) and one year is postdoctoral.

b. Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to the Board of Psychology Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. Submit with the application the health service provider fee payable to the Board of Psychology Examiners. The fee is nonrefundable.

d. Renew the certificate biennially at the same time as the psychology license renewal fees are due.

240.7(2) *Requirements of the health service training program.* The organized health service training program shall:

a. Have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who holds an active license from the state board of examiners in psychology in the state in which the program exists.

b. Have two or more psychologists on the staff as supervisors, at least one of whom holds an active license as a psychologist from the state board of examiners in psychology in the state in which the program exists.

c. Have supervision which is provided by a staff member of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more psychologists.

d. Provide training in a range of assessment and treatment activities conducted directly with patients seeking psychological services.

- e. Have a minimum of 375 hours of trainees' time in direct patient contact.
- f. Include a minimum of two hours per week (regardless of whether the internship is completed in one year or two) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved; seminars dealing with clinical issues; cotherapy with a staff person including discussion; group supervision; additional individual supervision.
- g. Have training that is at the postclerkship, postpracticum, and postexternship level.
- h. Have a minimum of two interns at the internship level of training during any period of training.
- i. Designate for internship-level trainees titles such as "intern," "resident," "fellow," or other designation of trainee status.
- j. Have a written statement or brochure which describes the goals and content of the internship, states clear expectations for quantity and quality of trainees' work and is made available to prospective interns.
- k. Provide a minimum of 1800 hours of training experience that shall be completed within 24 consecutive months and no less than 12 months.

645—240.8(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall file a summary of intent to practice and provide verification of the license from the other jurisdiction. The summary shall be submitted to and approved by the board prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

The summary and supporting documentation shall be accompanied by a check or money order for the processing fee for exemption to licensure pursuant to 645—Chapter 243. The fee is nonrefundable and shall be submitted payable to the Board of Psychology Examiners.

645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting. The supervising psychologist shall:

1. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.
2. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors shall also be available for emergency consultation and intervention.
3. Provide work assignments that shall be commensurate with the skills of the supervisee. All procedures shall be planned in consultation with the supervisor.
4. Work in the same physical setting as the supervisee, unless other individual arrangements are approved by the board of psychology examiners.
5. Make public announcement of services and fees; contact with laypersons or the professional community shall be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.
6. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person's status and information regarding the person's qualifications and functions.
7. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client's, the supervisee's or the supervisor's request.

8. Provide for setting and receipt of payment that shall remain the sole domain of the employing agency or supervising psychologist.

9. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

10. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description shall be made available to representatives of the board and service recipients upon request.

11. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

12. Maintain an ongoing record of supervision which details the types of activities in which the unlicensed person is engaged, the level of competence in each, and the type and outcome of all procedures.

13. Countersign all written reports and communications as "Reviewed and Approved" by the supervising psychologist.

645—240.10(147) Licensure by endorsement. An applicant who has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

240.10(3) Provides an official copy of the EPPP score sent directly to the board from the Association of State and Provincial Psychology Boards. The passing score is established by the Association of State and Provincial Psychology Boards.

240.10(4) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

240.10(5) Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

a. Provides:

- (1) Official copies of academic transcripts that have been sent directly from the school; and
- (2) Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; or

b. Has an official copy of one of the following certifications sent directly to the board from the certifying organization.

(1) Current Certification of Professional Qualification that was originally issued by the Association of State and Provincial Psychology Boards on or after January 1, 2002.

(2) Current credentialing at the doctoral level as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology.

(3) Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

240.10(6) Passes the Iowa jurisprudence examination as required in 240.4(5).

645—240.11(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure in psychology.

645—240.12(147) License renewal.

240.12(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

240.12(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.12(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

240.12(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" 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.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. 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 an exemption 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 645—Chapter 241.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

240.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

240.12(6) A person licensed to practice as a psychologist shall keep the person's license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

240.12(7) 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 645—subrule 243.1(3).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

b. To place the late license on inactive status, the licensee shall submit a written request for inactive status. No continuing education shall be required.

240.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—240.13(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.14(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.15(147) Duplicate certificate or wallet card.

240.15(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued under such circumstances.

240.15(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of a completed application from the licensee and receipt of the fee as specified in rule 645—243.1(147,154B).

240.15(3) If the board receives a completed application that states the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for reissuing the duplicate wallet card or duplicate certificate.

645—240.16(147) Reissued 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 645—243.1(147,154B).

645—240.17(17A,147,272C) License denial.

240.17(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

240.17(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

240.17(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—240.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.18(1) Submit a reactivation application on a form provided by the board.

240.18(2) Pay the reactivation fee that is due as specified in 645—Chapter 243.

240.18(3) Provide verification of current competence to practice as a psychologist or health service provider in psychology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—240.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 240.18(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, and 272C.

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CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS

645—241.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of psychology examiners.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a psychologist in the state of Iowa.

“*Practice of psychology*” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

645—241.2(272C) Continuing education requirements.

241.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

241.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

241.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

241.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

241.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—241.3(154B,272C) Standards.

241.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

241.3(2) Specific criteria.

- a. A licensee may obtain continuing education hours of credit by:
 - (1) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.
 - (2) Completing academic coursework that meets the criteria set forth in the rules. Continuing education credit equivalents are as follows:
 - 1 academic semester hour = 15 continuing education hours
 - 1 academic quarter hour = 10 continuing education hours
 - (3) Conducting scholarly research or other activities that integrally relate to the practice of psychology, the results of which are published in a recognized professional publication.
 - (4) Preparing new courses that have received prior approval from the board.
 - (5) Completing home study courses that issue a certificate of completion.
 - (6) Completing courses that are electronically transmitted and issue a certificate of completion.
 - (7) Attending workshops, conferences, or symposiums that meet the criteria in 645—241.3(272C).
- b. A combined maximum of 20 hours of credit per biennium may be used for scholarly research and preparation of new courses.

645—241.4(154B,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

241.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

241.4(2) The licensee shall provide the following information to the board for auditing purposes:

- a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

- b. Number of contact hours for program attended; and

- c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

241.4(3) For auditing purposes, all licensees must retain the information identified in subrule 241.4(2) for two years after the biennium has ended.

241.4(4) Information identified in subrule 241.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

241.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

241.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—241.5(154B,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—241.6(154B,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

241.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

241.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

241.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—241.7(154B,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

241.7(1) Failure to cooperate with a board audit.

241.7(2) Failure to meet the continuing education requirement for licensure.

241.7(3) Falsification of information on the license renewal form.

241.7(4) Falsification of continuing education information.

645—241.8(272C) Continuing education waiver for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.9(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.10(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154B.

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242.2(30) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient or client.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.

242.2(31) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

242.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—242.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—242.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

These rules are intended to implement Iowa Code chapters 147, 154B and 272C.

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CHAPTER 243
FEES

645—243.1(147,154B) License fees. All fees are nonrefundable.

- 243.1(1) Licensure fee for license to practice psychology is \$100.
- 243.1(2) Biennial license renewal fee is \$140.
- 243.1(3) Late fee for failure to renew before expiration is \$50.
- 243.1(4) Reactivation fee is \$190.
- 243.1(5) Duplicate or reissued license certificate or wallet card fee is \$10.
- 243.1(6) Rescinded IAB 8/31/05, effective 10/5/05.
- 243.1(7) Verification of license fee is \$10.
- 243.1(8) Returned check fee is \$15.
- 243.1(9) Disciplinary hearing fee is a minimum of \$75.
- 243.1(10) Processing fee for exemption to licensure is \$50.
- 243.1(11) The fee for the Examination for Professional Practice in Psychology is \$450.
- 243.1(12) Certification fee for a health service provider is \$50.
- 243.1(13) Biennial renewal fee for certification as a certified health service provider in psychology is \$50.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 154B and 272C.

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CHAPTERS 244 to 248
Reserved

CHAPTER 249
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 7/14/99, effective 8/18/99

CHAPTERS 250 to 259
Reserved

CHAPTER 280
LICENSURE OF SOCIAL WORKERS

645—280.1(154C) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*ASWB*” means the Association of Social Work Boards.

“*Board*” means the board of social work examiners.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*LBSW*” means licensed bachelor social worker.

“*Licensee*” means any person licensed to practice as a social worker in the state of Iowa.

“*License expiration date*” means December 31 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice social work to an applicant who is or has been licensed in another state.

“*LISW*” means licensed independent social worker.

“*LMSW*” means licensed master social worker.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of social workers who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*Private practice*” means social work practice conducted only by an LISW who is either self-employed or a member of a partnership or of a group practice providing diagnosis and treatment of mental and emotional disorders or conditions. In this context, “group practice” means an association of professionals in which an LISW is independently engaged in the practice of social work and has ongoing control of the clinical, financial, administrative, and professional arrangements between the LISW and the clients/patients of the LISW.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 280.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state and that state’s board of examiners has a mutual written agreement with the Iowa board of social work examiners to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—280.2(154C) Social work services subject to regulation. Social work services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation in Iowa.

645—280.3(154C) Requirements for licensure. The following criteria shall apply to licensure:

280.3(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.3(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

280.3(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Social Work Examiners. The fees are nonrefundable.

280.3(4) No application shall be considered by the board until official copies of academic transcripts have been received by the board except as provided in 280.4(6).

280.3(5) The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a social worker, sent directly from the state(s) to the Iowa board of social work examiners office.

280.3(6) The candidate shall take the examination(s) required by the board pursuant to these rules.

280.3(7) An applicant for a license as an independent social worker shall have met the requirements for supervision pursuant to 280.6(154C).

280.3(8) Each social worker who seeks to attain licensure as an independent social worker shall have been granted a master's or doctoral degree in social work and practiced at that level.

280.3(9) Notification of licensure shall be sent to the licensee by regular mail.

280.3(10) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.3(11) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—280.4(154C) Written examination.

280.4(1) The applicant is required to take and pass the ASWB examination at the appropriate level as follows:

- a. Bachelor level social worker—the basic level examination.
- b. Master level social worker—the intermediate level examination.
- c. Independent level social worker—the clinical level examination.

280.4(2) The electronic examination shall be scheduled with ASWB.

280.4(3) Application for any required examination will be denied or deferred by the board if the applicant lacks the required education or practice experience.

280.4(4) The applicant and the board shall be notified of the ASWB examination results, and the applicant may receive the results at the time of the examination. The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

280.4(5) The ASWB passing score will be utilized as the Iowa passing score.

280.4(6) An applicant may sit for the examination if the applicant meets the requirements stated in 645—280.3(154C). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master's level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student's expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office at the Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—280.5(154C) Educational qualifications.

280.5(1) Bachelor level social worker. An applicant for a license as a bachelor level social worker shall present evidence satisfactory to the board that the applicant possesses a bachelor's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

280.5(2) Master level social worker. An applicant for a license as a master level social worker shall present evidence satisfactory to the board that the applicant:

- a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(3) Independent level social worker. An applicant for a license as an independent level social worker shall present evidence satisfactory to the board that the applicant:

- a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(4) Foreign-trained social workers shall:

- a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310) 258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1725 Duke Street, Suite 500, Alexandria, Virginia 22314-3457, telephone (703)683-8080, Web site <http://www.cswe.org>. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.
- b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a social work program in the country in which the applicant was educated.
- c. Receive a final determination from the board regarding the application for licensure.

645—280.6(154C) Supervised professional practice for the LISW.

280.6(1) The supervised professional practice shall:

- a. Be the equivalent of two years of full-time post-master's social work degree practice at the master's level performing psychosocial assessment, diagnosis and treatment; or
- b. Be 4,000 hours of post-master's social work degree experience at the master's level performing psychosocial assessment, diagnosis and treatment over a minimum two-year and maximum six-year period;
- c. Have at least 110 hours of supervision which shall be equitably distributed throughout a minimum of a two-year period; and

d. Be obtained in the following manner:

(1) Face-to-face meetings between the supervisor and the supervisee unless the board has granted an exception allowing for an alternate form of supervision, upon written request of the applicant.

(2) Group supervision obtained using the following criteria:

1. No more than 60 hours of the 110 hours of supervision may be provided in group supervision;

2. Group supervision may be composed of no more than six supervisees per group.

280.6(2) The board maintains the authority to grant waivers relevant to the time parameters of the supervised professional practice upon written request of the applicant.

280.6(3) To meet the requirements of the supervised professional practice, the supervisor must:

a. Be an Iowa-licensed independent social worker as specified in rule 280.3(154C). An individual licensed in another state and providing supervision for an Iowa LISW candidate must be licensed at a level equivalent to Iowa's LISW level.

b. Have a minimum of 2,000 hours of practice earned over a period of two years of practice beyond receipt of a license to practice independent social work in Iowa or the equivalent license from another state.

c. Establish and maintain a plan throughout the supervisory period. Such a plan must be kept by the supervisor for a period of two years and must be submitted to the board upon its request for audit within 30 days from receipt of the request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address and telephone number of supervisor;

(2) The name, license number, address and telephone number of supervisee;

(3) The beginning date of clinical work experience under supervision and estimated date of completion;

(4) A plan for direct supervision hours, including frequency of supervisor/supervisee's face-to-face meetings;

(5) A plan for any group supervision;

(6) The goals and objectives for the clinical work experience; and

(7) The signatures of the supervisor and supervisee, and the dates of signatures.

d. Be responsible for supervision within the following content areas:

(1) Practice skills;

(2) Practice management skills;

(3) Skills required for continuing competence;

(4) Development of professional identity; and

(5) Ethical practice.

e. Be accountable for the following areas of supervision:

(1) Area of social work practice;

(2) Agency providing services;

(3) Legal and regulatory requirements;

(4) Ethical standards of the profession; and

(5) Acceptance of professional responsibility for the social work services provided by the supervisee.

f. Complete a supervision report sheet at the end of the supervised professional experience. This sheet shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

g. Exceptions to this rule shall be made on an individual basis. Requests for alternative supervisors must be submitted in writing, and the board must approve the supervisor prior to commencement of the supervision.

280.6(4) To meet the requirements of the supervised professional practice, the supervisee shall:

- a. Obtain a written release of information for protection of client confidentiality pursuant to 645—Chapter 282, if the supervisor and supervisee are not employed by the same agency.

- b. Have the following documentation for supervision of independent practice:

- (1) The plan for supervision that was created at the beginning of the period of supervision and that was maintained by the supervisor. If there has been a change of supervisors, the LISW candidate has the responsibility to have a termination evaluation completed by that supervisor and to have the copy submitted to the next supervisor. All termination evaluations shall be available to the board upon request. The supervision provided by all qualified supervisors who have a plan of supervision with the applicant can be counted toward meeting the criteria for supervision.

- (2) At the end of supervision, the supervisee shall have any and all supervisors complete a supervision report sheet provided by the board of social work examiners. This report shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

645—280.7(154C) Licensure by endorsement. An applicant who has been a licensed social worker under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts;
5. Provides official copies of the examination score sent directly from the ASWB; and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—280.8(154C) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia, any state, territory, province or foreign country with equal or similar requirements for licensure of social workers.

645—280.9(154C) License renewal.

280.9(1) The biennial license renewal period for a license to practice social work shall begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

280.9(2) Renewal procedures.

a. A licensee seeking renewal shall:

(1) Meet the continuing education requirements of rule 645—281.2(154C,272C) and the mandatory reporting requirements of subrule 280.9(3). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

c. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

d. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

e. Failure to receive the notice of renewal shall not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

f. A pending application for a higher level of licensure does not relieve the social worker of the renewal or reactivation requirements. A social worker applying for a higher level shall renew the license that is held at the current level at the time of the renewal.

g. A social worker whose Iowa license is inactive, delinquent, closed, retired, voluntarily surrendered, suspended, or revoked cannot advance to a higher level until the license is again active.

280.9(3) Mandatory reporting of child abuse and dependent adult abuse.

a. 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 waiver of this requirement as identified in paragraph “*f.*”

b. A licensee who regularly examines, attends, counsels or treats dependent 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 waiver of this requirement as identified in paragraph “*f.*”

c. A licensee who regularly examines, attends, counsels or treats both dependent adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting in dependent adults and children or condition(s) for waiver of this requirement as identified in paragraph “*f.*”

d. Training may be completed through separate courses as identified in paragraphs “*a*” and “*b*” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

e. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

f. 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 645—Chapter 281.

g. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

280.9(4) Late renewal. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

280.9(5) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a social worker in Iowa until the license is reactivated. A licensee who practices as a social worker in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

280.9(6) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

645—280.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—280.11(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—280.12(272C) Duplicate certificate or wallet card.

280.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued for such circumstances.

280.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application and receipt of the fee as specified in rule 645—284.1(147,154C).

280.12(3) If the board receives the completed application, stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required to issue a duplicate wallet card or duplicate certificate.

645—280.13(17A,147,272C) License denial.

280.13(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

280.13(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

280.13(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—280.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

280.14(1) Submit a reactivation application on a form provided by the board.

280.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 284.

280.14(3) Provide verification of current competence to practice social work by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation; and

- (3) Verification of taking and passing the ASWB examination at the appropriate level as follows:
1. Bachelor level social worker – the bachelor's level examination; or
 2. Master level social worker – the master's level examination; or
 3. Independent level social worker – the clinical level examination.

645—280.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 280.14(17A,147,272C) prior to practicing social work in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

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◇Two ARCs

CHAPTER 281
CONTINUING EDUCATION FOR SOCIAL WORKERS

645—281.1(154C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of social work examiners.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a social worker in the state of Iowa.

645—281.2(154C) Continuing education requirements.

281.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. (To implement this rule change, the continuing education period for the December 31, 2000, renewal will run from July 1, 1998, to December 31, 2000.) Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 27 hours of continuing education approved by the board.

281.2(2) Requirements of new licensees. Those persons licensed for the first time during the license renewal period shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

281.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

281.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

281.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

281.2(6) The licensee shall maintain a personal file with all documentation of the continuing education credits obtained.

645—281.3(154C,272C) Standards.

281.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.
- d. Fulfills stated program goals, objectives, or both;
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor; and
- f. Contains one of the following content areas:
 - (1) Human behavior.
 1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;
 2. Community and organizational theories;
 3. Normal, abnormal and addictive behaviors;
 4. Abuse and neglect; and
 5. Effects of culture, race, ethnicity, sexual orientation and gender.
 - (2) Assessment and treatment.
 1. Psychosocial assessment/interview;
 2. Utilization of the DSM-IV TR;
 3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;
 4. Establishing treatment goals and monitoring progress;
 5. Techniques of social work practice; and
 6. Interdisciplinary consultation and collaboration.
 - (3) Social work research, program evaluation, or practice evaluation.
 - (4) Management, administration, and social policy.
 1. Organizational policies and procedures;
 2. Advocacy and prevention in social work practice;
 3. Management of social work staff and other personnel; and
 4. Management of social work programs.
 - (5) Theories and concepts of social work education.
 - (6) Social work ethics as they pertain to the rules of conduct.
 - (7) An area, as demonstrated by the licensee, that directly relates to the licensee's individual practice as a social worker. The licensee shall submit for consideration by the board a specific explanation of how the program relates to the licensee's individual practice setting as a social worker.

281.3(2) Specific criteria. Continuing education hours of credit can be obtained by completing:

- a. A minimum of three hours per biennium in social work ethics.
- b. A maximum of 12 hours per biennium for independent study courses.
- c. Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

- d. Self-study courses that have a mentor and prior approval as defined in the rules and are accompanied by a brief paper authored by the licensee demonstrating application of the learning objectives to practice issues.

- e. Programs designed for the purpose of enhancing the licensee's administrative, management or other clinical skills.

- f. A program or course which is offered or sponsored by an approved continuing education sponsor.

- g. Activities/programs that are sponsored/approved by:

- (1) ASWB Approved Continuing Education (ACE) Program; or
- (2) National Association of Social Workers (NASW) Continuing Education Unit (CEU) Approval Program.

- h. Pro-bono/volunteer work that meets the following criteria:

- (1) A licensee may earn a maximum of 3 of the required 27 hours of continuing education for credit during one biennium by performing pro-bono/volunteer services for indigent, underserved populations, or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.

- (2) A licensee shall make application for prior approval of pro-bono/volunteer services by sending a letter to the board indicating that the following requirements will be met:

1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.

2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to the rules of 645—Chapter 282.

5. A representative from the site for pro-bono/volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro-bono/volunteer services that will be done for continuing education credit.

7. Following completion of such services:

- The licensee must provide the board a letter stating that the services were performed as planned.
- The representative on the site must provide a letter indicating such completion.

- i. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis not to exceed three hours of continuing education credit per biennium.

- j. Instruction/presentation/moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program provided the licensee receives a certificate of attendance in compliance with this rule.

- k. Authorship of papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or the preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

645—281.4(154C,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

281.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

281.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

281.4(3) For auditing purposes, all licensees must retain the information identified in subrule 281.4(2) for two years after the biennium has ended.

281.4(4) Information identified in subrule 281.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

281.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

281.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—281.5(154C,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—281.6(154C,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

281.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

281.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

281.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—281.7(154C,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

281.7(1) Failure to cooperate with a board audit.

281.7(2) Failure to meet the continuing education requirement for licensure.

281.7(3) Falsification of information on the license renewal form.

281.7(4) Falsification of continuing education information.

645—281.8(154C,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—281.9(154C,272C) Continuing education waiver for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—281.10(154C,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—281.11(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154C.

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◇Two ARCs

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- d. Engaging in a professional conflict of interest.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

283.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

283.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—283.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—283.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

These rules are intended to implement Iowa Code chapters 147, 154C and 272C.

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CHAPTER 284

FEES

[Prior to 9/19/01, see 645—Chapter 280]

[Prior to 9/3/03, see 645—Chapter 283]

645—284.1(147,154C) License fees. All fees are nonrefundable.

284.1(1) Licensure fee for license to practice social work is \$100.

284.1(2) Biennial license renewal fee for a license at the bachelor's level is \$60 each biennium; for the master's level, \$100 each biennium; and independent level, \$120 each biennium.

284.1(3) Late fee for failure to renew before expiration is \$50.

284.1(4) Reactivation fee for a license at the bachelor's level is \$110; for the master's level, \$150; and independent level, \$170.

284.1(5) Duplicate license certificate or wallet card fee is \$10.

284.1(6) Verification of license fee is \$10.

284.1(7) Returned check fee is \$15.

284.1(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154C and 272C.

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CHAPTER 285

IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/16/99, effective 7/21/99*

CHAPTERS 286 to 288

Reserved

CHAPTER 289

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99*

CHAPTERS 290 to 298

Reserved

*Effective date of **ARC 9102A** delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

657—10.29(124,155A) Schedule III, IV, or V partial fills. The partial filling of a prescription for a controlled substance listed in Schedule III, IV, or V is permissible provided that each partial fill is recorded in the same manner as a refill. The total quantity dispensed in all partial fills shall not exceed the total quantity prescribed. No dispensing shall occur later than six months after the date on which the prescription was issued.

657—10.30(124,155A) Schedule III, IV, and V medication order. A Schedule III, IV, or V controlled substance may be administered or dispensed to institutionalized patients pursuant to a medication order as provided in 657—subrule 7.13(1) or rule 657—23.9(124,155A), as applicable.

657—10.31(124,155A) Dispensing Schedule V controlled substances without a prescription. A controlled substance listed in Schedule V, which substance is not a prescription drug as determined under the federal Food, Drug and Cosmetic Act, may be dispensed or administered without a prescription by a pharmacist to a purchaser at retail pursuant to the conditions of this rule.

10.31(1) Who may dispense. Dispensing shall be by a licensed Iowa pharmacist or by a registered pharmacist-intern under the direct supervision of a pharmacist preceptor.

a. Except as provided in this subrule, dispensing shall not be by a pharmacy technician or other nonpharmacist employee even if under the direct supervision of a pharmacist.

b. This subrule does not prohibit, after the pharmacist has fulfilled the professional and legal responsibilities set forth in this rule, the completion of the actual cash or credit transaction or the delivery of the substance by a nonpharmacist.

10.31(2) Frequency and quantity. Dispensing at retail to the same purchaser in any 48-hour period shall be limited to no more than one of the following quantities of a Schedule V substance:

a. 240 cc (8 ounces) of any controlled substance containing opium;

b. 120 cc (4 ounces) of any other controlled substance, except as provided in subrule 10.31(7);

c. 48 dosage units of any controlled substance containing opium;

d. 24 dosage units of any other controlled substance, except as provided in subrule 10.31(7).

10.31(3) Age of purchaser. The purchaser shall be at least 18 years of age.

10.31(4) Identification. The pharmacist shall require every purchaser under this rule not known by the pharmacist to present a government-issued photo identification, including proof of age when appropriate.

10.31(5) Record. Except as provided in subrule 10.31(7), a bound record book for dispensing of Schedule V controlled substances pursuant to this rule shall be maintained by the pharmacist. The book shall contain the name and address of each purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or unique identification of the pharmacist who dispensed the substance to the purchaser.

10.31(6) Prescription not required under other laws. No other federal or state law or regulation requires a prescription prior to distributing or dispensing a Schedule V substance.

10.31(7) Dispensing pseudoephedrine-containing products. Dispensing at retail to the same purchaser within any 30-day period shall be limited to products collectively containing no more than 7,500 mg of pseudoephedrine.

a. A dispensing record shall be created and maintained for the dispensing of pseudoephedrine products pursuant to this subrule. The record shall contain the name and address of each purchaser, the name and quantity of the product purchased, the date of each purchase, and the name or unique identification of the pharmacist who dispensed the product to the purchaser. The record may be maintained using one of the following options:

(1) A hard-copy record.

(2) A record in the pharmacy's electronic prescription dispensing record-keeping system.

(3) A record in an electronic data collection system that captures each of the data elements required by this subrule. The electronic data collection system shall be capable of producing a hard-copy printout of the records upon request by the board or its representative or to such other persons or governmental agencies authorized by law to receive such information.

b. Dispensing of pseudoephedrine products pursuant to this subrule shall comply with other provisions of this rule for the dispensing of Schedule V substances including who may dispense a substance and the age and identification of the purchaser.

657—10.32 and 10.33 Reserved.

657—10.34(124,155A) Records. Every inventory or other record required to be kept under this chapter or under Iowa Code chapter 124 shall be kept by the registrant and be available for inspection and copying by the board or its representative for at least two years from the date of such inventory or record except as otherwise required in these rules. Controlled substances records shall be maintained in a readily retrievable manner that establishes the receipt and distribution of all controlled substances.

10.34(1) Schedule I and II records. Inventories and records of controlled substances listed in Schedules I and II shall be maintained separately from all other records of the registrant.

10.34(2) Schedule III, IV, and V records. Inventories and records of controlled substances listed in Schedules III, IV, and V shall be maintained either separately from all other records of the registrant or in such form that the required information is readily retrievable from the ordinary business records of the registrant.

10.34(3) Date of record. The date on which a controlled substance is actually received, imported, distributed, exported, or otherwise transferred shall be used as the date of receipt or distribution.

10.34(4) Receipt and disbursement records. Each record of receipt or disbursement of controlled substances, unless otherwise provided in these rules or pursuant to federal law, shall include the following:

- a. The name of the substance;
- b. The strength and dosage form of the substance;
- c. The number of units or commercial containers acquired from other registrants, including the date of receipt and the name, address, and DEA registration number of the registrant from whom the substances were acquired;
- d. The number of units or commercial containers distributed to other registrants, including the date of distribution and the name, address, and DEA registration number of the registrant to whom the substances were distributed; and
- e. The number of units or commercial containers disposed of in any other manner, including the date and manner of disposal and the name, address, and DEA registration number of the registrant to whom the substances were distributed for disposal, if appropriate.

10.34(5) Dispensing records. Each record of dispensing of controlled substances to a patient or research subject shall include the following information:

- a. The name and address of the person to whom dispensed;
- b. The date of dispensing;
- c. The name of the substance;
- d. The quantity of the substance dispensed; and
- e. The name or unique identification of the individual who dispensed or administered the substance.

10.34(6) Ordering or distributing Schedule I or II substances. Except as otherwise provided under federal law, a DEA Form 222 is required for each distribution of a Schedule I or II controlled substance. An order form may be executed only on behalf of the registrant named on the order form and only if the registrant's DEA and Iowa registrations for the substances being purchased have not expired or been revoked or suspended by the issuing agency.

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*LAW ENFORCEMENT ACADEMY (cont'd)**Officers**Certification*Eligibility **501**—3.4, 3.12(6)Extensions **501**—3.1(3,5,6)Revocation **501**—ch 6Tests **501**—3.8, 3.9, 3.12(5), *see also Tests, Psychological below*Employment **501**—2.3, 3.12Reserve **501**—ch 10Standards **501**—ch 2, 10.100–10.105Railway special agents **661**—13.2, 13.3*Records**Generally*, public/fair information **501**—ch 7Address **501**—7.3, 7.6Confidential **501**—7.9(2), 7.10–7.12, 7.13(2), 7.14, 7.15Data processing **501**—7.14–7.16Disclosure **501**—7.10, 7.11Fee **501**—7.3(7)Hearings **501**—7.14(2)Officer file **501**—7.14Open **501**—7.9(1), 7.13(1), 7.14(2), 7.15Personally identifiable information **501**—7.14Personnel **501**—7.14(4,11)Rule-making **501**—7.15(4)Rule making **501**—1.11, 7.15(4), ch 16Salvage vehicle theft examiners, certification **501**—ch 11Telecommunicator training board **501**—ch 13Tests, psychological **501**—2.2, 3.12(2)*Training*AIDS program **641**—11.35(3)Certification **501**—ch 3Costs, reimbursement **545**—ch 9Emergency medical care **641**—ch 139Facilities **501**—ch 5In-service **501**—ch 8Instructors **501**—ch 4, 8.2, 9.2(2–4)Jailers **501**—1.1, ch 9Sheriffs **501**—3.1Telecommunicators **501**—ch 13Weapons certification **501**—ch 10

LEAD

LEAD

Abatement

Clearance testing, *see Clearance Testing below*

Contractors/workers **641**—ch 69, 70.2, 70.4(8–11,15), 70.5(1)f, 70.5(2)b, 70.5(3)e, 70.5(5)c, 70.5(7), 70.6(6,11), 70.7, 70.8(3), *see also Professionals, Certification below*

Funds **261**—25.8(7)

Blood tests **441**—84.3(6); **641**—1.3(1)e(1), 68.6, 72.2(3)c,e

Child care centers **441**—109.11(7), *see also Inspections: Standards below*

Clearance testing **641**—68.1, 68.5(3), 70.2, 70.3, 70.6(6)i,j, 70.6(8,12)

Definitions **641**—68.2, 69.2, 70.2, 72.1

Disposal, cathode ray tubes **567**—122.14

Emissions **567**—22.1(2)i, 23.1(2)hh, 23.1(4)x,bt

Gasoline **21**—85.48(15)

Housing, target, remodeling/renovation/repainting **641**—ch 69, 70.2, 70.6

Inspections

Agencies

Certification **641**—70.3, 70.5(5)

Medicaid providers **441**—77.40, 78.44, 79.1(2) p.11

Poisoning prevention **641**—ch 72

Records **641**—70.6(10)

Hazard reduction, local level **641**—ch 68

Inspectors/risk assessors, certification **641**—70.3–70.5

Public health department **641**—69.9, 69.10(1)c, 70.9

Records **641**—70.6(3)e, 70.6(10)

Reports **641**—70.6(1)a(7), 70.6(2)d, 70.6(3)d,e, 70.6(4)m, 70.6(5)i,l, 70.6(6)j(1), 70.6(6)l–p, 70.6(7)c, 70.6(8)d, 70.6(9)c, 70.7

Standards **641**—70.6

Landfills, sanitary, coal residue **567**—103.1(2)f

Packaging, manufacturers/distributors **567**—ch 213

Paint activities, lead-based

See also Housing, Target, Remodeling/Renovation/Repainting above

Child-occupied facilities/target housing, standards **641**—70.6

Definition **641**—69.2, 70.2

Firms, certification **641**—70.7

Violations **641**—70.9, 70.10

Poisoning prevention

- Information, distribution **641**—69.3, 69.5, 69.6
- Program, funding **641**—ch 72
- Training **641**—70.5(1)*d*

Professionals, certification

- Generally* **641**—70.3
- Application **641**—70.4(1)*i*, 70.4(3)*v*, 70.4(8)*r*, 70.4(10)*m*, 70.4(11)*r*, 70.4(12)*x*, 70.4(13)*h*, 70.4(14)*o*, 70.5(1), *see also Recertification this subheading below*
- Denial **641**—69.10(4), 70.10
- Examinations **641**—70.5(7)
- Firms **641**—70.7
- Prohibitions **641**—70.6(11)
- Qualifications **641**—70.5(2)
- Recertification **641**—70.5(3,4,6)
- Reciprocity **641**—70.5(8)
- Suspension/revocation **641**—69.10(4), 70.10
- Training **641**—70.4, 70.5, *see also Training, Lead-Safe Program below*

Soil

- Abatement **641**—70.6(6)*g*
- Definitions **641**—68.2, 70.2
- Inspections **641**—70.6(4)*d,g*, 70.6(5)*h,i*, 70.6(6)*g*, 70.6(12)
- Standards, land recycling program **567**—137.6(6)

Training, lead-safe program **641**—70.8

- Water supplies **567**—40.2, 41.3(1)*e*(1), 41.4, 42.2, 42.3(3)*d*(2)“2,” 42.4(2), 42.5(1)*b*, ch 42 Appendixes A–C, 43.1(2), 43.7, 83.6(7)*a*(5)

LEASES

- Bank/company guidelines **187**—9.3
- Barge fleets **571**—17.10
- Carriers, *see CARRIERS*
- Employers, unemployment contributions **871**—22.3(5), 23.28(7)
- Farm machinery, taxation, *see Taxation, Property/Equipment below*
- Horses, race **491**—6.18
- Institutions, state **441**—ch 2
- Land, state-owned
 - Aliens, business **261**—58.4(8)
 - Fees **571**—13.7, ch 18
 - Wildlife habitats **571**—ch 21
- Motor vehicles, *see MOTOR VEHICLES*

LEASES (*cont'd*)

Preserves, hunting **571**—112.3

Property

Personal, savings and loan acquisition **197**—ch 13

Signs, advertising **761**—117.1

State

Capital leases **11**—110.7

Taxation **701**—78.6(1)

Taxation, property/equipment

Corporations **701**—54.6(3)*b*(5)

Credit **701**—52.10(2), 52.22(2)*a*(3), 73.20

Inheritance, form **701**—86.11(8)

Real estate transfer **701**—79.2(5)

Safe harbor, deductions **701**—53.7

Sales tax

Companies, utility/railroad **701**—18.45(3), 77.4(5)

Conditional sales contracts **701**—16.47

Data processing **701**—18.34(2)

Farm machinery **701**—18.44(2)*g*(2), 18.44(3)

Motor vehicles, *see MOTOR VEHICLES: Taxation*

Retailers, premises **701**—15.11

Tangible personal **701**—18.36

Use tax, retailers **701**—28.4

Utilities, electric **199**—40.3

LEATAC

Law enforcement administrator's telecommunications advisory committee **661**—ch 15

LEGISLATURE

Council, administrative services representative **11**—10.5(1)*b*

Employees

Minimum wage exclusion **875**—220.12

Parking **11**—101.7(2)*b*

Retirement, *see IPERS (Iowa Public Employees' Retirement System) below*

Enrolled bills/session laws depository **721**—1.7

Fiscal bureau, statistical data acquisition **701**—6.3(1)“5”

IPERS (Iowa public employees' retirement system) **495**—5.2(1,12) 6.3(9), 8.1(6), 11.5(1)

Rural health advisory committee **641**—110.5

Service agency, memento sales **701**—17.41

Taxation

- Deductions **701**—40.31
- Lobbying, exemption **701**—18.43

Workforce development appropriation **261**—8.3

LEMON LAW

See *MOTOR VEHICLES*

LEVEES

See *FLOOD CONTROL*

LIBRARIES

- Access, building code requirements **661**—16.708
- Advisory councils **286**—3.9(2), 6.2
- Archaeological document collection **685**—chs 6, 8
- Barber schools **645**—23.6“3”
- Beauty schools **645**—61.2(7)*h*
- Blind/handicapped **111**—ch 6
- Boards, trustees, library service areas **286**—ch 9
- Deaf **429**—4.1(9,10)
- Division **286**—chs 1–4, 6, 7
- Education department divisions **281**—1.4(1)*e*
- Enrich Iowa program **286**—3.2
- Grants **286**—ch 6
- Historical **223**—ch 22, *see also HISTORICAL DIVISION: Collections*
- Labor commissioner, reports **875**—130.12
- Librarians, certification **286**—3.7
- Loans, interlibrary **223**—13.8(2); **286**—3.1, 3.4, 8.5(5)
- Reading programs, summer **286**—3.8
- Regional **286**—ch 8
- Schools
 - Community colleges **281**—21.5, 21.9(10)
 - Learning resource centers **281**—21.5, 21.9(10)
 - Media centers **281**—ch 70; **282**—22.7(5)
 - Media specialists **281**—41.9(3)*k*; **282**—15.3“1”*a*(4), 15.3(4)
- State
 - Appeals/hearings **286**—3.2(4–6)
 - Classroom, Iowa Communications Network **286**—ch 4
 - Collections **286**—1.5, 1.6
 - Commission **286**—1.3(3,4), 6.3(5), ch 9

LIBRARIES (cont'd)
State

- Definitions **286**—1.1, 3.9, 4.1
- Depository program **286**—3.9
- Fund **286**—1.7(6)
- Grants, application/review **286**—6.3
- Internet access **286**—ch 7
- Materials, disposal **286**—1.7
- Organization **286**—1.3
- Photocopies **286**—1.4
- Records
 - Generally*, public/fair information **286**—ch 2
 - Address **286**—2.3(1)
 - Confidential **286**—2.9(2), 2.10, 2.11, 2.13(2,3)
 - Data processing **286**—2.14, 2.16
 - Definition **286**—2.10(1)
 - Disclaimer **286**—2.17
 - Disclosure **286**—2.9–2.12
 - Open **286**—2.13(1), 2.15
 - Personally identifiable information **286**—2.14
 - Personnel **286**—2.14(1)
 - Rule-making **286**—2.15(5)
- Services/programs, *generally* **286**—chs 3, 6, 8.6

Telecommunications network **199**—39.4; **751**—7.1, 7.4(6), 7.5“13–15,” 8.3

LICENSES

*See also PERMITS; PROFESSIONAL LICENSING AND REGULATION DIVISION;
 PROFESSIONAL LICENSURE*

- Accountants, *see ACCOUNTANCY, ACCOUNTANTS: Certification/Licensure*
- Administrators, schools **282**—14.110, 14.114, 14.120(2), 14.142, 17.7, ch 20
- Agriculture, *see AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT*
- Amateur radio operators **761**—401.5
- Asbestos, removal/encapsulation **875**—ch 155
- Athletic trainers **645**—ch 351, *see also ATHLETICS: Trainers*
- Audiologists, *see SPEECH PATHOLOGY AND AUDIOLOGY*
- Banks
 - Debt management **187**—2.9
 - Loans **187**—15.1, 15.2, 16.1
- Barbers, *see BARBERS*
- Beer/liquor establishments, *see BEER AND LIQUOR*

Bingo

Manufacturers/distributors **481**—100.80–100.82

Qualified organizations **481**—103.2, 103.18, *see also Gambling below*

Boats, excursion gambling **491**—1.5(1,3), 1.7, 4.4, 4.6, 5.1, ch 6, *see also RACING AND GAMING: Gaming, Boats/Racetracks*

Breeders, animal **21**—67.5(4), 67.10

Broker-dealer **191**—48.3, 50.1

Care facilities

See also HEALTH CARE FACILITIES

County **481**—57.49, 58.53, 62.24, 63.48, 64.59, 65.27

Day care centers, *see Child Care Centers below*

Foster care, *see Foster Care Facilities below*

Health care facilities

Generally **481**—1.6“7,” 1.12, 41.4, 50.3, 50.5

Hospitals, *see HOSPITALS*

Intermediate **441**—82.2; **481**—64.3, 64.4, 64.7, 65.2, 65.3, 65.5

Nursing **441**—81.13(19)a, 82.2, 85.41; **481**—58.3, 58.4, 58.7, 58.35(6)c, 61.3(2,4)

Residential

Generally **481**—57.3, 57.5, 57.8, 57.30(7)c, 60.3(3,5)

Mentally ill **481**—62.2, 62.3, 62.5, 62.21(10)a, 62.24

Mentally retarded **481**—63.3, 63.4, 63.7, 63.28(7)c

Psychiatric

See also Residential this subheading above

Generally **481**—51.2(1)b

Children **481**—ch 41

Chauffeurs, *see MOTOR VEHICLES: Licenses*

Child care centers **441**—109.2, 109.3, 109.4(5,6), 170.4(3)a, *see also Foster Care Facilities below*

Child-placing agencies **441**—108.2, 108.10

Chiropractors, *see CHIROPRACTORS*

Collectors, scientific **571**—111.2

Commerce department authority **181**—1.4(9)

Congregate meal sites, elderly **321**—7.3(9)b(5)

Cosmetologists, *see COSMETOLOGY AND COSMETOLOGISTS*

Counselors **282**—14.120(3), 14.140(5,6); **645**—ch 30

Dairy, *see Milk/Cream below*

Day care, *see Child Care Centers above*

LICENSES (cont'd)

- Dead animal disposal **21**—1.2(1)*a*, 61.1–61.7, 61.23, 76.8
- Debt management companies **187**—2.9
- Dentistry, *see DENTISTS AND DENTISTRY*
- Detectives, private, *see Private Investigation/Security Business below*
- Dietitians, *see DIETITIANS*
- Drivers, *see MOTOR VEHICLES: Licenses*
- Drugs, wholesale **657**—3.5, ch 17
- Egg handlers **481**—30.4(9), 36.2, 36.11
- Electrologists **645**—ch 60, 61.12(1)
- Employment agencies **875**—38.2–38.5
- Engineers/land surveyors **193C**—ch 2, 9.3, 9.6
- Environmental protection commission **567**—7.1, 140.1, 150.3, 150.8–150.11
- Estheticians **645**—ch 60, 61.12(1)
- Explosives **661**—5.7, 5.865, 5.866
- Fertilizers, manufacturers, *see FERTILIZERS*
- Financial institutions, regulated loans **187**—15.1, 15.2
- Fire safety, buildings, special functions **661**—5.5
- Fishing, *see FISH AND FISHING*
- Food establishments **481**—1.5“2,” 30.3–30.7, 30.10, 30.12, 31.7–31.9, 31.11, 34.5, 35.7–35.10
- Food processing plants **481**—30.3–30.6, 30.7(6), 30.10, 30.12, 31.8, ch 35
- Food service establishments **481**—1.5“2,” 30.3–30.7, 30.10, 30.12, 31.8–31.10, 35.7–35.10
- Foster care facilities
 - Application **441**—108.8(1–3)
 - Family homes **441**—chs 112, 113
 - Group living **441**—chs 112, 114
 - Inspections **481**—ch 40
 - Mentally retarded **441**—chs 112, 116
 - Residential **441**—chs 112, 115, 116
- Fuel, motor/special, *see FUEL*
- Funeral directors **645**—ch 101
- Gambling **481**—1.5“1,” 100.2, 100.3, 100.12, 100.13, 100.30, 100.32(2,4), 100.60, 101.1, 102.1, 103.2, 103.18, *see also Lottery below; Racing, Horse/Greyhound below; RACING AND GAMING*
- Games of skill/chance, *see Gambling above*
- Grain dealers, *see GRAIN: Dealers*
- Hazardous waste, *see Waste, Hazardous, Facilities below*
- Health care facilities, *see Care Facilities above*

LICENSES (cont'd)

- Hearing aid dispensers, *see HEARING AID DISPENSERS*
- Hospices **481**—1.12, 50.3(3)*b*, 53.2
- Hospitals, *see HOSPITALS*
- Hotels, *see HOTELS AND MOTELS*
- Hunting, *see HUNTING*
- Inspections and appeals department, *see INSPECTIONS AND APPEALS DEPARTMENT*
- Inspectors, labor services division **875**—71.5, 75.7
- Instructors, *see TEACHERS*
- Insurance sales, *see INSURANCE*
- Intermediate care facilities, *see Care Facilities above*
- Kennels/shelters/pounds **21**—1.2(1)*b*, 67.8, 67.10
- Land surveyors, *see Engineers/Land Surveyors above*
- Land/water, private use **561**—1.2(9)
- Liquor, *see BEER AND LIQUOR*
- Livestock dealers/markets **21**—1.2(1)*a*
- Lottery **531**—5.1, chs 12–14
- Manicurists **645**—ch 60
- Massage therapists, *see MASSAGE THERAPY*
- Mental health counselors/therapists **645**—ch 30
- Midwives, *see NURSES*
- Milk/cream
 - Haulers/ graders **21**—68.2(4), 68.48, 68.49, 68.68, 68.69
 - Tankers/truckers **21**—68.2(6), 68.41, 68.71
 - Testers **21**—68.2(5), 68.9
- Mining, *see MINES AND MINING*
- Mobile home retailers/manufacturers/distributors **761**—421.2, 421.3, 421.8
- Motels, *see HOTELS AND MOTELS*
- Motor vehicles
 - See also CARRIERS: Registration*
 - Dealers/distributors/manufacturers/representatives **761**—425.10, 425.12, 425.17, 425.20, 425.24, 425.26, 425.50, 425.62, ch 430
 - Drivers, *see MOTOR VEHICLES*
 - Leasing **761**—ch 430
 - Milk tankers/truckers, *see Milk/Cream above*
 - Recyclers **761**—ch 431
 - Rental companies/employees **191**—10.51–10.60
 - Wholesalers **761**—425.52, 425.70(2)*h*, 425.70(3)*e*
- Nail technologists **645**—ch 60, 61.12(1)
- Natural resources department authority **561**—1.2(4,8,9), 1.3(2)*c*(4), 7.16

LICENSES (cont'd)

- Natural resource commission, *see NATURAL RESOURCES DEPARTMENT*
- Nurses, *see NURSES*
- Nursing home administrators **645**—chs 143, 144, *see also HEALTH CARE FACILITIES; NURSING HOME ADMINISTRATORS*
- Optometrists, *see OPTOMETRISTS AND OPTOMETRY*
- Organized delivery systems (ODSs), *see ORGANIZED DELIVERY SYSTEM (ODS)*
- Osteopaths **653**—chs 8–10, *see also PHYSICIANS AND SURGEONS*
- Pesticides, *see PESTICIDES*
- Pet industry, commercial **21**—1.2(1)*b*, 67.5(4), 67.8, 67.10
- Pharmacists, *see PHARMACISTS AND PHARMACY*
- Physical/occupational therapists, *see PHYSICAL/OCCUPATIONAL THERAPISTS*
- Physicians/surgeons, *see PHYSICIANS AND SURGEONS*
- Podiatrists, *see PODIATRY*
- Poultry dealers **21**—1.2(1)*a*, 60.2
- Private investigation/security/bail enforcement business **661**—2.1, 2.3, 2.4, 2.6–2.10, 2.16
- Psychiatric facilities, *see Care Facilities above*
- Psychologists, *see PSYCHOLOGISTS*
- Racing, horse/greyhound **491**—5.1, 10.5(1)*a*(28), 10.5(1)*c*, 10.5(3)*a*(1), *see also RACING AND GAMING*
- Radioactive materials/machines, *see RADIATION MACHINES AND RADIOACTIVE MATERIALS*
- Raffles **481**—100.2(2)*e, i–k*, 100.32(2,4), 100.61, *see also Gambling above*
- Real estate, *see REAL ESTATE: Appraiser Examining Board; REAL ESTATE: Broker/Salesperson*
- Rendering plants, *see Dead Animal Disposal above*
- Residential care facilities, *see Care Facilities above*
- Respiratory care practitioners, *see RESPIRATORY THERAPISTS*
- Revenue and finance department, denial/revocation procedure **701**—7.24
- Riverboats, *see RACING AND GAMING: Gaming, Boats/Racetracks*
- Sanctions, student loan default **283**—ch 37
- Securities, broker-dealer **191**—50.1
- Seed sales **21**—1.2(8)
- Septic tank cleaners **567**—ch 68
- Service contractors, residential **191**—54.13(1), 54.16, 54.20–54.22
- Shoot fighting **875**—101.2(1)
- Social workers, *see SOCIAL WORKERS*
- Speech pathologists/audiologists, *see SPEECH PATHOLOGY AND AUDIOLOGY*
- Stockbrokers, *see Securities, Broker-Dealer above*
- Substance abuse treatment programs **643**—3.2–3.16, 3.18–3.20, 3.35(2,14), ch 6
- Suspension/revocation, *see specific licensee*

Tanks, underground storage, installation/inspection **591**—ch 15, 17.32
Teachers, *see* **TEACHERS**
Tobacco, distributors/subjobbers **701**—81.12(2), 83.1
Trailer dealers/manufacturers/distributors **761**—425.10, 425.14(4), 425.17, 425.50,
see also **TRAILERS**
Vendors
 Machines **111**—7.2, 7.8, 7.9; **481**—1.5“2,” 30.3—30.6, 35.7—35.10
 Products, Iowa logos **261**—ch 103
Veterinarians **811**—5.14(4), chs 6, 7, 10.6(10,23—25), 10.7, 10.11
Warehouses, bonded, *see* **WAREHOUSES**
Waste, hazardous, facilities **561**—1.2(8); **567**—140.1, 150.3, 150.8—150.11
Weights/measures **21**—1.2(7)
Wine manufacturers/wholesalers **185**—ch 5

LIENS

Inheritance tax, *see* **TAXATION**
Mechanic’s, utility right-of-way **199**—42.12
Property, *see* **PROPERTY**

LIFE INSURANCE

See **INSURANCE**

LIME

Additives/toxic materials **21**—43.38, 43.39
Agricultural, abandoned wells **567**—39.3, 39.7, 39.8
Analyzation/certification **21**—43.20, 43.31—43.36, 43.38
By-products **567**—108.4(9,10)
Definitions **21**—43.30
Labels **21**—43.37
Manufacturers, emissions **567**—22.100 p.33, 23.1(2)x,y

LIQUEFIED PETROLEUM

See **PETROLEUM**

LIQUID TRANSPORT CARRIERS

See **CARRIERS**

LIQUOR

See **BEER AND LIQUOR**

LITIGATION

LITIGATION

- Attorney general division **61**—1.3(1)*d*
- Indigents, civil litigation funds **361**—ch 12
- Legal procedures, state **61**—ch 1

LITTER

See *GARBAGE*

LIVESTOCK

See also *ANIMALS*; *MEAT*

- Advisory council appropriation **521**—ch 1
- Agricultural statistics bureau **21**—1.3(4)
- Animal industry bureau **21**—1.2(1), 64.2, 64.7, 64.17, 64.42(1), 65.3
- Auction markets, see *Movement: Markets below*
- Bison **21**—64.47(8), 65.2(3)*d*, 65.4, see also *Cattle/Bovine below*
- Bovine, definition **21**—64.47(8), see also *Cattle/Bovine below*
- Branding **21**—1.2(1)*a*, ch 63, 64.52, 64.54(1), 64.81, 66.4(9)
- Cattle/bovine
 - See also *DAIRIES*
 - Beef industry council **101**—chs 1–4
 - Dealers, see *Dealers below*
 - Disease
 - Generally **21**—64.1, 64.3, 64.7, 64.17
 - Anthrax **21**—61.28, 61.29
 - Blackleg **21**—64.15
 - Brucellosis **21**—64.34(2)*b*, 64.47, 64.49–64.58, 64.63–64.65, 65.4(2)*c*, 65.4(3)*b*, 65.4(4), 66.4(6,9), 66.5–66.9
 - Indemnity **21**—64.57, 64.96
 - Quarantine **21**—61.28, 64.34(1–3), 64.35, 64.51, 64.81, 64.82, 65.4(2), see also *Disease: Quarantines below*
 - Research **521**—ch 1
 - Scabies/mange **21**—64.17, 64.30
 - Tests **21**—64.8, 64.34, 64.47, 64.49–64.51, 64.55, 64.57(4,10), 64.58, 64.65, 64.73–64.77, 64.81–64.92, 64.172, 65.4(2–4), 66.4(6,9), 66.7, 66.8, 66.9(2), see also *Reactors this subheading below*
 - Tuberculosis **21**—64.34(2)*a*, 64.65, 64.73–64.101, 65.4(3), 65.4(4)*a*, see also *Disease: Paratuberculosis (Johne's) below*
- Exhibitions **21**—64.34(1–3); **371**—6.21, 7.6, 7.20, see also *Fairgrounds, Exhibitions/Sales below*

LIVESTOCK (cont'd)
Cattle/bovine

- Feed, adulterants **21**—41.10
- Feedlots, *see Feedlots below*
- Importation **21**—64.41(3), 64.80, 65.2—65.4
- Interstate/intrastate movement **21**—64.84, 64.95, 64.177, 65.2—65.4, 66.10, 66.12
- Markets **21**—1.2(1)a, 66.5—66.10
- Quarantine, *see Disease this subheading above*
- Reactors **21**—64.51—64.54, 64.56, 64.57, 64.81, 64.85, 64.96, 66.6(4), 66.9(5)
- Research **521**—1.1
- Sales/shows **21**—66.7; **371**—7.6, *see also Sales below*
- Slaughter **21**—64.53, 64.54, 64.57(5,14), 64.85, 64.175—64.178, 66.4(9), 66.7, 66.9(4)
- Tags, identification **21**—6.14(4)a, 64.52, 64.54, 64.63, 64.64, 64.65(4), 64.79, 64.81, 64.91, 64.101(3), *see also Branding this subheading above*
- Taxation, *see Taxation below*
- Vaccination **21**—64.34(2)b(2)“2,” 64.49(2), 64.52, 64.55(4), 66.4(6), 66.7(5), *see also Disease below*
- Veterinary inspection certificates (CVI) **21**—64.34(1—3), 64.78, 64.84, 65.1, 65.4, 66.11
- Cervidae **701**—17.9(1,9), *see also Disease subheadings Chronic Wasting (CWD) below; Paratuberculosis (Johne’s) below; Movement below*
- Chickens, *see POULTRY*
- Chloramphenicol **21**—66.12
- Dead, disposal
 - Licensure **21**—1.2(1)a, 61.1—61.7, 61.23, 76.8
 - Methods **21**—61.28—61.32, 64.11, 64.15, 64.111, 64.160(1)e, 76.8; **567**—100.4, 105.6; **571**—104.11
- Plant, rendering
 - See also Licensure this subheading above; Disease: Control, Disinfection below*
 - Committee **21**—61.23
 - Employees **21**—61.17
 - Inspection **21**—1.2(1)a, 76.4, 76.8
 - Pet food **21**—76.8(5), 76.11(2)
 - Plans/specifications **21**—61.11, 61.12
 - Spraying **21**—61.24
- Records **21**—76.11
- Registration **21**—76.7
- Reports **21**—64.92
- Transportation **21**—76.8—76.10, *see also Vehicles this subheading below*
- Vehicles **21**—61.15—61.19, 64.39; **761**—400.47

LIVESTOCK (*cont'd*)

- Dealers **21**—1.2(1)*a*, 66.1, 66.13, 66.20
- Deer, *see Cervidae above*
- Definition **21**—66.1(1)
- Disease
- Anthrax **21**—61.28, 61.29
 - Aujeszky's disease, *see Swine: Disease: Pseudorabies below*
 - Blackleg **21**—64.15
 - Brucellosis **21**—1.2(1)*a*, 64.1, 64.34(5)*b*, 64.34(10), 64.35(6), 64.47, 64.49–64.58, 64.63–64.65, 65.6(2)*a*, 65.7, 65.8(1)*b*, 65.9(3)*b*, 66.2(2), 66.4(6), 66.6–66.9, *see also Cattle/Bovine: Disease above; Cervidae above; Swine: Disease below; BRUCELLOSIS*
 - Cattle, *see Cattle/Bovine above*
 - Chronic wasting (CWD) **21**—64.1, 64.34(10), 64.35(6), 64.104–64.118, 65.9, 66.14; **571**—ch 104
 - Control, disinfection
 - Conveyances **21**—61.19, 64.38, 64.39, 64.176, 64.191(2)*b,e,g*, 65.3(2), 65.4(1)
 - Exhibitions **21**—64.32–64.35
 - Markets **21**—64.176, 66.3(6)
 - Premises **21**—61.29, 64.12, 64.53, 64.57(10), 64.96, 64.133, 64.191(2)*g*, 64.192; **571**—104.12
 - Rendering plants **21**—61.24, 61.28
 - Definitions **21**—64.4, 64.6, 64.47, 64.65, 64.104, 64.147, 64.170, 64.185, 64.200, 65.9
 - Dysentery (swine) **21**—64.35(1)
 - Equine **21**—64.1, 64.34(6), 65.8, *see also Glanders/Farcy this subheading below*
 - Glanders/farcy **21**—64.10–64.13, 64.17
 - Hides **21**—61.28, 61.29, 64.15
 - Hog cholera, *see Swine: Disease below*
 - Indemnity **21**—64.56(2), 64.57, 64.207, *see also Cattle: Disease above; Swine: Disease below*
 - Low pathogenic avian influenza (LPAI) **21**—64.185–64.192
 - Noncommunicable **21**—61.31
 - Paratuberculosis (Johne's) **21**—64.1, 64.170–64.178, 65.4(2)*b*
 - Prevention, animal industry duties **21**—64.2
 - Pseudorabies, *see Swine: Disease below*
 - Quarantines **21**—1.2(1)*a*, 61.28, 64.2, 64.6, 64.12, 64.34, 64.35, 64.58(3), 64.108, 64.109, 64.189, 64.190, 64.207, 65.3(1), 65.9(2), 66.4(4,5,9), 66.11; **571**—104.1, 104.8, 104.9; **641**—1.12, *see also Cattle/Bovine above; Sheep below; Swine below*
 - Rabies **21**—64.23–64.25

*LIVESTOCK (cont'd)**Disease*

Reports **21**—1.2(1)*a*, 64.1, 64.3, 64.17, 64.63(3); **571**—104.2(4)

Research **521**—ch 1

Scabies/mange **21**—64.1, 64.17, 64.30, 65.7(2)*a*

Scrapie **21**—64.200–64.211, 65.6(3), 65.7(2)*b*

Sheep, *see Sheep below*

Swine, *see Swine below*

Tests

See also specific animal

Cervidae **21**—64.104, 64.107; **571**—104.2(1)

Slaughtering establishments **21**—64.8; **571**—104.2(1)*b*

Township authority **21**—61.33, 64.3

Tuberculosis, *see Paratuberculosis (Johne's) this subheading above; Cattle/Bovine above; Cervidae above; Goats below; Swine below; TUBERCULOSIS*

Typhoid (puller), *see POULTRY: Diseases*

Vaccine/vaccination **21**—64.5, 64.25, 64.50, 64.52, 64.55(4), 64.57(2,4), 64.99–64.101, 64.173, 64.191(2)*f*, 66.4(2); **701**—18.23, *see also Cattle/Bovine above; Swine below*

Vesicular stomatitis (VS) **21**—65.1, 65.3(4)

Veterinarian, inspection, *see Veterinary Inspection below*

Elk, *see Cervidae above*

Equine, *see HORSES*

Fairgrounds, exhibitions/sales **21**—64.32–64.35; **371**—6.21, 6.30, ch 7, *see also POULTRY: Exhibitions*

Federal laws **21**—64.85, 66.5, 66.6, 66.10, 66.12, 76.1–76.4, 76.6

Feed

See also FEED, COMMERCIAL

Generally **21**—ch 41

Adulterants **21**—41.10(1)*a,b*

Contract feeding disputes, mediation **61**—17.15(2), 17.18(2)

Fair, state **371**—6.30, 7.3(1)*e*

Organic **21**—47.4(1)*c*

Taxation, exemption **701**—17.9, 18.14, 18.23, *see also Taxation: Equipment below*

Feedlots

Generally **567**—ch 65

Air pollution, monitoring **567**—ch 32

Colleges, research **567**—65.1, 65.7(2), 65.16(1)*d*, 65.19(7)*a*(6), 65.19(7)*b*(2)

Construction, *see subheadings Inspections; Permits; Storage Structures below*

Definitions **567**—65.1, 70.2; **701**—43.8(2)*k*

Drainage tile **567**—65.15(1–3)

LIVESTOCK (*cont'd*)

Feedlots

- Funds, organic nutrient management control **27**—13.72–13.74
- Inspections **567**—65.10(4), 65.17(14), 65.18“3”
- Loans **25**—4.4(3); **781**—4.10
- Manure control
 - Alternatives **567**—65.14(2), 65.15(1)*e*, 65.15(2)*f*, ch 65 Appendix A
 - Anaerobic lagoons **567**—22.1(3)*c*, 23.5(1), 65.11(5)*a*, 65.15, ch 65 Tables 3,3a,5,6 (p.72,73,76,77)
 - Applicators/commercial services, certification **567**—65.19
 - Definitions **567**—65.1
 - Evaluation **567**—65.5
 - Land application **567**—65.2(7–9), 65.3, 65.17, 65.19, ch 65 Appendix A
 - Management
 - Plans **21**—49.8; **567**—65.9(1)*l*, 65.10, 65.16, 65.17, ch 65 Appendix C “26,28,37,38,40,41”
 - Practices **567**—ch 65 Appendix C “26–44”
 - Production **567**—ch 65 Tables 3,3a,5 (p.72,73,76)
 - Sales **21**—49.8; **567**—65.17(2,12)
 - Systems, runoff **567**—65.2(2), ch 65 Appendix A
- Open **567**—60.3(2)*c*, 65.1, 65.2(2), 65.4(1), 65.9(2)
- Operations
 - Permits **567**—60.3(2), 65.4, 65.5(2), 65.6
 - Transfer, responsibility **567**—65.21
- Permits
 - Construction **567**—64.18, 65.7, 65.8(3)*c,e*, 65.9–65.11, 65.16, 65.18, ch 65 Appendix C
 - Implements of husbandry **761**—ch 181
 - Operations, *see Operations this subheading above*
 - Terminal feedlots **21**—64.211(3)
- Records **567**—65.15(2)*h*, 65.17(13,14), 65.211(4)
- Registration program **567**—65.6(12)
- Rule validity **567**—65.22
- Separation distances **567**—65.11, 65.12, 65.14, ch 65 Appendix C “1–11,30–35,” Table 6 (p.77), 72.2(9), 72.3(5)
- Sheep/goats **21**—64.211
- Storage structures
 - Construction **567**—65.15, 65.18, ch 65 Appendixes C “12–25,” D, 71.13, 72.13, *see also Permits; Separation Distances this subheading above*
 - Definitions, animal waste **567**—40.2

*LIVESTOCK (cont'd)**Feedlots**Storage structures*

Location, *see Separation Distances this subheading above*

Manure retention **567**—65.2(3)

Violations **567**—65.7(3,5), 65.8(3), 65.10(10), 65.17(15), 65.21

Water pollution **27**—12.73(6); **567**—65.2, 65.3, 65.5, 65.17(3)g, 65.17(10), 90.2, 91.9

Wells, location **567**—43.3(7) Table A, 49.6, 65.12(5,6), 65.14, ch 65 Appendix C “33,44,” Table 6 p.75

Goats **21**—64.1, 64.34(1,5), 64.35(5), 64.211, 65.6; **701**—17.9(1), 40.38(3), *see also Disease subheadings Paratuberculosis (John’s) above; Scrapie; DAIRIES*

Hides, transportation **761**—400.47, *see also Disease above*

Hogs, *see Swine below*

Horses, *see HORSES*

Identification, official **21**—64.34(2–6), 64.34(10)a, 64.35(6), 64.104, 64.105, 64.106(3), 64.133, 65.1, 65.6(1)b, 65.9(2)b(4); **571**—104.4, *see also specific animal subheading Tags/Identification*

Importation, *see Movement below*

Indemnity, *see Disease above*

Inspection **21**—1.2(1); **571**—104.22, *see also Veterinary Inspection below*

Loans, *see Purchase, Loans below*

Markets, *see Movement below*

Movement

Cervidae **21**—64.115, 64.116, 66.14; **571**—104.2(2), 104.15, 104.16, 104.19, 104.21, *see also Importation this subheading below*

Fees **21**—64.42, 66.1(5)

Importation

Address **21**—65.3

Cattle, *see Cattle/Bovine above*

Cervidae **21**—64.34(10)b, 65.2(3)a, 65.3(2), 65.9; **571**—104.20, 104.21

Chloramphenicol prohibition **21**—66.12

Disease **21**—64.178, ch 65

Permits, pre-entry **21**—64.178(3), 65.1–65.3, 65.5(4)c, 65.9(1)c

Sheep, *see Sheep below*

Swine, *see Swine below*

Interstate **21**—64.204(2), 64.208, ch 65, 66.12, *see also Cattle/Bovine above; Swine below*

Intrastate **21**—64.41, 64.177, 66.11, 66.14, 76.7–76.11, *see also Cattle/Bovine above; Swine below*

Markets **21**—1.2(1)a, 1.3(3,4), 64.41, 64.42, 64.63, 64.176, 64.204(1,2), 64.205, 64.208, 65.1, 66.1–66.6, 66.9, 66.10

LIVESTOCK (*cont'd*)*Movement*

Permits **21**—64.41(1), 64.104, 64.177(3), 64.210, 66.1, 66.7(8), *see also Importation this subheading above*

Transportation certificate **21**—64.155(7), 66.11

Veterinary inspection certificates (CVI) **21**—64.42, 65.3(3), 65.5–65.9, 65.13, 66.2, 66.4, 66.11, 66.14, *see also specific animal*

Violations/penalties **21**—65.13

Mules **21**—64.34(6); **701**—40.38(3)

Permits **21**—64.54(2), 64.57(14), 64.85(2), 64.154(2), 64.160, 64.170, 66.1, 66.20, *see also Feedlots above; Movement above*

Pigs, *see Swine below*

Poisoning, report **21**—45.36

Poultry, *see POULTRY*

Production

Credit, refunds **701**—43.8

Organic **21**—47.4

Purchase, loans **25**—4.4(4), 4.6(4)*a*

Quarantine, *see Disease above*

Records, department **21**—6.14(4)*a*

Referendum **21**—20.4

Rendering plants, *see Dead, Disposal above*

Sales

See also specific animal

Bill of sale, veterinary signature-stamped **21**—64.200, 64.204, 64.208, 64.211(4)

Fairgrounds **371**—ch 7

Markets, *see Movement above*

Prohibition **21**—64.42(2)*b*

Taxation, *see Taxation below*

Transportation, certificate **21**—64.155(7), 66.11

Scales **21**—85.9, 85.20, 85.27

Sheep

Dairies, *see DAIRIES*

Disease

See also Disease: Paratuberculosis (Johne's) above

Footrot **21**—64.34(5)

Quarantine **21**—64.30, 65.7(2), *see also Disease: Quarantines above*

Research, funds **521**—ch 1

Scabies/mange **21**—64.30, 65.7(2)

Scrapie **21**—64.1, 64.34(5)*a*, 64.35(5), 64.200–64.211, 65.7(2)*b*

Exhibition **21**—64.34(5), 64.202(1,2), 64.209; **371**—6.21

*LIVESTOCK (cont'd)**Sheep*

Feed, adulterants **21**—41.10(1)*a,b*

Feedlots **567**—64.211, ch 65

Health certificates, *see Veterinary Inspection Certificates (CVI) this subheading below*

Importation **21**—64.41(3), 65.3(2), 65.7

Indemnity **21**—64.207

Promotion board **741**—chs 1–5

Quarantine, *see Disease this subheading above*

Sales **21**—64.209; **371**—7.7; **701**—40.38(3); **741**—ch 4, *see also Sales above*

Tags, identification **21**—64.34(5)*a*, 64.35(5), 64.200, 64.202–64.206, 64.208, 64.209, 64.211, 65.7(1)

Taxation, *see Taxation below*

Veterinary inspection certificates (CVI) **21**—64.34(1,5), 64.200, 64.204, 64.208, 64.211(4), 65.1, 65.7

Wool

Sales **741**—ch 4

Transportation **761**—400.47

Slaughter **21**—64.8, 64.106(1), 64.206, 64.210, 64.211, 65.1, 66.11, 66.12;

571—104.6; **875**—32.8(9), *see also Cattle/Bovine above; Dead, Disposal above; Swine below; POULTRY*

Swine

Breeding **21**—65.5(2)

Captive wild-type **21**—65.2(3)*c*, 65.5(4)

Dealers, *see Dealers above*

Disease

Aujeszky's, *see Pseudorabies this subheading below*

Brucellosis **21**—64.34(4)*a*, 64.43(1), 64.67, 64.68, 64.71, 65.5(2)*a*, 65.5(3)*a*, 65.5(4)*a*

Dysentery **21**—64.35(1)

Eradication plan (herd cleanup) **21**—64.157, 64.160

Feeder pig cooperators plan **21**—64.158, 64.161, 64.162

Hog cholera **21**—61.30, 64.5, 64.17

Indemnity **21**—64.133, 64.153(3)

Notification **21**—64.1, 64.17, 64.30

Pseudorabies **21**—1.2(1)*a*, 64.34(4)*b*, 64.35(1,2), 64.147, 64.151–64.160, 64.162, 65.5(2)*b*, 65.5(3)*b*, 65.5(4)*b*

Quarantine **21**—64.34(4), 64.35, 64.43, 64.67, 64.151, 64.155(2,3), 64.158(2)“7,11,” 64.160(1)*g,i*, 66.11, *see also Disease: Quarantines above*

Research **521**—1.1

Scabies/mange **21**—64.17, 64.30

Tests **21**—64.8, 64.34(4), 64.35(1,2), 64.67, 64.68, 64.151, 64.153, 64.155(5), 64.156, 64.157, 64.159, 65.5(2,3), 66.8

LIVESTOCK (*cont'd*)

Swine

Disease

Tuberculosis **21**—64.133, 64.134, *see also* Disease: *Paratuberculosis (Johne's) above*

Vesicular stomatitis **21**—65.3(4)

Exhibition/sales **21**—64.32, 64.33, 64.34(1,4), 64.35, 64.154, 64.155(2)*f*;
371—6.21, 7.8

Farm-to-market movement **21**—64.154(4), 64.155(4)

Feed, adulterants **21**—41.10(1)*a,b*

Feeder **21**—64.154(3,4), 64.155, 64.156(2), 64.157(2)*c*(5), 64.158–64.162, 65.2(3),
65.5(3), 66.13, 66.20; **701**—43.8(2)*d,e*

Feedlots **567**—ch 65

Feral **21**—65.1, 65.5(1)*d,e*

Importation/exportation **21**—64.41(3), 64.155(1,5), 65.1–65.3, 65.5

Inspection, *see* *Veterinary Inspection Certificates (CVI) this subheading below*

Interstate/intrastate movement **21**—64.154(2,5), 64.155, 64.158(2)*“5,”* 65.12(1)*b*,
65.12(2), 66.12

Markets **21**—1.2(1)*a*, 65.5

Permits **21**—65.5(4), *see also* *Movement above*

Production health plan (SPHP) **21**—65.5(1), 65.12

Reactors **21**—64.43, 64.67, *see also* *Disease subheadings Eradication Plan*
(Herd Cleanup); Feeder Pig Cooperator Plan this subheading above

Records **21**—64.154(5), 64.158(2)*“9,”* 64.160(1)*c*

Sales **21**—64.156, 64.158(2)*“6,7,”* 64.161, 66.13, 66.20*“5,”*; **371**—7.8;
701—40.38(3), *see also* *Sales above*

Slaughter **21**—64.35(2), 64.133, 64.154(2)*c*, 64.155, 64.156(2)*h*, 64.157(2)*c,d*,
64.158(2)*“7,8,”* 64.160, 65.5(5)

Tags/identification **21**—6.14(4)*a*, 64.34(4), 64.43(1)*b*, 64.71(2), 64.134(3), 64.154,
64.155, 64.156(2), 64.157(2)*c*(7)*“2,”* 64.158(2)*“7,”* 65.5(1)*b*

Taxation, *see* *Taxation below*

Transitional **21**—65.1, 65.5(1)*e*, 65.5(4)

Vaccination **21**—64.5, 64.35(2), 64.134(1), 64.152, 64.153(5), 64.157(2)*c*,
64.158(2)*“2,6,9,”* 64.160(1)*d*, 64.162(5), *see also* *Disease above*

Veterinary inspection certificates (CVI) **21**—64.34(1,4), 64.154(4)*b–d*, 64.155, 65.1,
65.2(3), 65.3(3,4), 65.5

Tags **21**—64.211(1)*c*, 64.211(4); **571**—104.4; **701**—17.35, *see also* *Cattle/Bovine*
above; Identification above; Sheep above; Swine above

Taxation

Equipment **701**—18.48, 26.20

Excise, beef **101**—1.1, ch 3

Exemptions **701**—16.34, 17.9, 17.26, 17.35, 18.9, 18.14, 18.23, 18.48(4,6,7)

Feeding/cleaning, fuel credit **701**—64.14 Tables III, IV

Fiduciary **701**—89.8(7)*g,k*

*LIVESTOCK (cont'd)**Taxation*

Income, individual

Capital gains **701**—40.38(2,3)Excess **701**—39.10Production, credit refunds **701**—43.8Refunds, *see Production, Credit Refunds this subheading above*Sales **701**—17.9, 17.35, 18.9, 39.10, 40.38(2,3,6,9,10), 43.8Veterinary supplies/drugs **701**—18.23

Transportation

*See also Dead, Disposal above*Certificates **21**—64.155(7), 66.11Companies **21**—64.38Feeder pigs **21**—64.154(4)Permits, *see Movement above*Reactors **21**—64.85Ungulates **571**—112.11Waybills **21**—64.84Turkeys, *see POULTRY*Vaccination, *see Disease above*Veterinary inspection **21**—64.34, 64.35, 64.68, 65.1, 65.3(3), 65.6, 65.9, 66.2, 66.10;
571—112.11, *see also Cattle/Bovine above; Movement above; Sheep above; Swine above; HORSES; POULTRY*Waste, *see Feedlots above*

Water usage

Permits **567**—51.6(1)Wells, nonpublic **567**—49.3Withdrawals, restrictions **567**—51.6(1), 52.4(2)d, 52.10(3)g**LIVESTOCK HEALTH ADVISORY COUNCIL (ILHAC)**Livestock disease research **521**—ch 1**LOANS**Adjustable mortgage loans, *see Mortgages below*

Agricultural

*See also AGRICULTURAL DEVELOPMENT AUTHORITY*Collection, mediation service **61**—ch 17Development authority, Iowa (IADA), loan participation program **25**—ch 4Farmer, beginning **25**—ch 2, 4.1(4), 4.8(2)b; **701**—40.36Linked investments for tomorrow (LIFT) **781**—ch 4

*LOANS (cont'd)**Agricultural*

- Operating loan guarantee program **25**—ch 5
- Product development **261**—ch 57
- Soil conservation **27**—chs 11, 15, *see also SOIL CONSERVATION DIVISION*

Banks, state, *see BANKS AND BANKING*

Blufflands protection **571**—ch 24

Business

- Community economic betterment program **261**—ch 53
- Economic development set-aside **261**—23.7
- Employee training **261**—ch 7
- Grow Iowa values fund **264**—ch 3
- Loan and credit guarantee program **261**—ch 69
- Physical infrastructure assistance **261**—ch 61
- Small, *see SMALL BUSINESS*

Cities, *see CITIES*

Colleges and universities, facilities **264**—ch 4, *see also Education below*

Construction

- Disclosure **191**—5.53
- Real estate, banks **187**—9.2

Consumer **197**—ch 9

Counties, *see COUNTIES*

Credit, line **61**—ch 16

Credit unions, *see CREDIT UNIONS*

Default **25**—4.9(6), 5.11; **261**—55.5(10), *see also Student below*

Education **261**—ch 7; **283**—chs 10, 15, 35, 37; **641**—110.21, *see also COLLEGE STUDENT AID COMMISSION; GRANTS*

Energy conservation **565**—6.6(3)a,c

Farmer, *see Agricultural above*

Finance authority

- Group homes **265**—ch 6
- Home/community-based services **265**—ch 21
- Housing assistance fund (HAF) **265**—ch 15
- Main street program **265**—ch 11
- Mortgage credit certificate (MCC) **265**—ch 10
- Revenue bond financing **265**—ch 4, 6.1
- Senior living, assisted living/housing **265**—ch 20
- Small business **265**—ch 5
- Terms, mortgage/temporary **265**—ch 2

Fire fighting equipment **661**—259.201–259.207

- Group home facilities **265**—ch 6
- Grow Iowa values fund, *see Business above*
- Guaranteed **25**—ch 5; **261**—55.5, *see also Student below*
- Higher education loan authority **284**—chs 1–5
- Historic buildings, *see Main Street, Historic Building Restoration below*
- Housing **197**—12.3, 12.4; **261**—ch 25; **265**—chs 2, 15, *see also GRANTS*
- Industrial loan companies
 - Account ledger cards **187**—16.6(2,3)
 - Disclosure **187**—16.10, 16.11(2), 16.12(1)*h*
 - License **187**—1.4(1)*b*, 16.1
 - Loan conversion **187**—16.8
 - Real estate **187**—16.10, 16.12
 - Records **187**—16.5–16.7
 - Refunds **187**—16.6(2)*f*
- Insurance companies **25**—chs 2, 4, 5; **27**—ch 11; **191**—5.12, 5.13, 5.50–5.55, 54.50(5)*c*; **265**—chs 4–6, 10; **283**—ch 10, *see also INSURANCE*
- LIFT program, *see Agricultural above*
- Line of credit **61**—ch 16
- Livestock/facilities **25**—4.4(3,4), 4.6(4)*a*; **781**—4.10
- Lobbyists, government employees/officials **351**—6.20, 8.16
- Main street, historic building restoration **223**—ch 46
- Manufacturers, *see Business above*
- Mortgages
 - Adjustable **197**—ch 11
 - Banks **187**—9.2, 16.10
 - Companies, agricultural lenders **25**—ch 4
 - Credit certificates (MCCs) **265**—ch 10
 - Credit unions **189**—ch 9
 - Disclosure, *see DISCLOSURE*
 - Finance authority programs **265**—chs 2, 9, 10
 - Savings and loan associations **197**—ch 12
 - Title guaranty program **265**—ch 9
- Physicians **641**—110.21
- Primary care providers **641**—110.2, 110.21
- Public transit, *see Transit Systems, Public below*
- Railroads **761**—ch 831; **765**—3.1
- Real estate, *see Industrial Loan Companies above; Mortgages above*
- Reassessment expense fund **701**—ch 120

LOANS (cont'd)

Regulated

Default charges **187**—15.4(2)

Deferments **187**—15.3(2)*e*

Forms **187**—1.4(1)*b*

Insurance **187**—15.3(2)*f*

Interest

Ledger entries **187**—15.3(2)

Precomputed **187**—15.3(2)*e*

Rates **187**—15.5

License **187**—1.4(1)*b*, 15.1, 15.2

Payments **187**—15.3(2)

Records, lenders

Death claim **187**—15.3(2)*c*

Deferred charges **187**—15.3(2)*e*

Disbursement vouchers **187**—15.3(6)

Document requirements **187**—15.3(4)

Erasures **187**—15.3(2)*b*

Index **187**—15.3(5)

Ledgers **187**—15.3(2)

Loan register **187**—15.3(1)

Payments **187**—15.3(2)

Savings and loan associations, *see SAVINGS AND LOAN ASSOCIATIONS*

Small business, *see SMALL BUSINESS*

Stocks/obligations, organized delivery systems (ODSs) **641**—201.13(2)*b*

Student

Chiropractors **283**—ch 32

Default **11**—4.14(4)*b*; **191**—10.22, 19.24, 50.6; **193A**—2.7(4); **193B**—5.47; **193D**—1.9; **193E**—1.8; **282**—ch 9, 25.3(7); **283**—10.2(4–6), 12.1(7), 13.1(7), 14.2(12), 19.1(7), 22.1(5), 27.1(10), 32.1(10), 35.1(10), 36.1(5), ch 37; **481**—8.2, 8.3; **641**—ch 195; **645**—ch 15; **653**—ch 16; **655**—ch 18; **657**—ch 31; **701**—43.4(2)

Family education **283**—ch 10

Guaranteed, *see Teachers: Science/Math this subheading below*

Liquidity corporation **283**—1.2(7), 10.2(1)*b*

Marketing associations, investments, taxation **701**—40.2(1)*c*“19”

Taxation, income, exclusion **701**—40.63

Teachers

Forgivable **283**—ch 35

Science/math **283**—ch 15

Tourism **261**—ch 211
Transit systems, public **761**—ch 923
Transportation, intermodal facilities **761**—ch 201
Underground storage tanks **591**—ch 12
Wastes, reduction/recycling **567**—ch 209
Wastewater treatment/disposal/water pollution control **561**—1.2(11); **567**—chs 90–93
Water treatment facilities **567**—40.6, ch 44

LOBBYISTS

See also ETHICS AND CAMPAIGN DISCLOSURE

Executive branch **351**—1.1(6), 6.12, 6.20, ch 8; **361**—ch 8
Services, taxation **701**—18.43

LONG-TERM CARE

See also ELDER AFFAIRS DEPARTMENT; HEALTH CARE FACILITIES

Grants **441**—ch 162
Hospitals, *see HOSPITALS*

LOTTERY AUTHORITY

Address **531**—1.3, 1.5(5), 2.17, 18.8(3), 20.14(1,2)
Adjudicative proceedings, emergency **531**—5.30
Advertising **531**—1.12–1.14, 2.4, 13.3, 14.13(2), 14.14(2), *see also Tickets: Promotional*
Use below
Appeals **531**—2.7(1), 2.17, 5.25, 5.27
Background checks **531**—14.19(1,2,7,9), 14.20(1)k, *see also Employees below; Licensure*
below
Boards
Hearing **531**—5.2, 5.3, 5.25, 5.26
Lottery
Contracts **531**—1.7, *see also Purchasing, Products/Services below*
Employee incentive programs **531**—1.11
Game rules **531**—1.6
Meetings **531**—1.4
Records **531**—1.5, 5.24
Rule making **531**—1.2, chs 3, 4
Chief executive officer
Business promotion **531**—1.13
Contested cases **531**—5.7
Contracts **531**—1.7

LOTTERY AUTHORITY (cont'd)
Chief executive officer

Equipment **531**—13.12

Monitor vending machines (MVMs) **531**—14.9“3,” 14.19, 14.20

Claims, *see Prizes below*

Contested cases **531**—ch 5

Declaratory orders **531**—ch 6

Employees

Background investigation **531**—1.29

Incentive programs **531**—1.11, *see also Retailers below*

Games

Generally **531**—1.6, 12.4(1), chs 14, 18–20

Authority **531**—18.1, 19.1, 20.1

Computerized

Definitions **531**—20.2

Drawings **531**—20.2, 20.20, 20.21, 20.22(3)

Methods **531**—20.3

Multidraw/advance plays **531**—20.19

Multistate **531**—20.6

Odds **531**—20.5, 20.8

Prizes **531**—20.6, 20.7, 20.11, 20.12(2), 20.13–20.17, 20.22(3,4), 20.23

Promotions **531**—20.10

Tickets

Cancellations **531**—20.4, 20.18

Errors **531**—20.18

Ownership **531**—20.11

Price **531**—20.9, 20.10

Sales **531**—20.21

Validation **531**—20.12

Monitor vending machines (MVMs) **531**—ch 14

Pool exhaustion **531**—20.2, 13.22

Pull-tab

Approval **531**—19.13

Definitions **531**—19.2

Logo **531**—19.11

Method **531**—19.4

Odds **531**—19.7

Prizes **531**—19.5(1)g, 19.6, 19.8–19.10

Termination **531**—19.12

LOTTERY AUTHORITY (*cont'd*)

Games

Pull-tab

Tickets

Price **531**—19.3Validation **531**—19.5

Scratch ticket

Approval **531**—18.11Definitions **531**—18.2Method **531**—18.4Odds **531**—18.7Price **531**—18.3Prizes **531**—18.5, 18.6, 18.8, 18.9(2)Sales **531**—18.10Termination **531**—18.10Validation **531**—18.8, 18.9Hearings, *see Contested Cases above*Inspections **531**—13.9, 14.13(1)*k*, 14.26

Licensure

Applications **531**—12.4Background checks **531**—12.7, 14.5(1)“1,” 14.8Child support noncompliance **531**—1.5(4), 12.1(3), 12.2, 12.4(7), 12.7, 12.12(1)*p*,
12.14, 14.8, 14.16Definitions **531**—12.3, 14.3Denial **531**—12.1, 12.4(7), 12.7, 12.15, 14.8, 14.13(3), 14.25Display **531**—13.3, 14.5(2)Duplicates **531**—12.9, 14.10Eligibility **531**—12.1–12.3, 14.1, 14.2Expiration **531**—12.6–12.8, 14.7, 14.8Fees **531**—12.4(3,5), 14.4(5), 14.5(1)“4”Financial responsibility **531**—12.2, 12.16, 14.13(1)*c*, 14.18Monitor vending machines, *see Monitor Vending Machines (MVMs) below*Off-premises **531**—12.8Provisional **531**—12.7, 12.8, 14.8Suspension/revocation **531**—5.3, 12.12, 12.13, 12.15, 13.8, 14.13–14.17, 14.25Transfers **531**—12.5, 14.6Monitor vending machines (MVMs) **531**—12.17, 13.13, ch 14Organization **531**—1.2Prizes **531**—1.5(3), ch 11, 12.12(1)*r*, 13.2(4), 13.6(1), 14.21(4), 14.27, *see also Games above*

LOTTERY AUTHORITY (cont'd)

Pull-tab, *see Games above*

Purchasing, products/services **531**—ch 2, *see also ADMINISTRATIVE SERVICES DEPARTMENT (DAS); BIDS AND BIDDING*

Records, *see Boards: Lottery above; Retailers below*

Retailers

Changes, business **531**—12.10, 14.11

Checks, dishonored **531**—13.8, 14.25

Child support noncompliance, *see Licensure above*

Compensation **531**—13.6(3), 14.23

Display, point-of-sale **531**—13.3

Electronic funds transfer (EFT) **531**—13.7, 13.8, 14.24, 14.25

Equipment/property **531**—13.5, 13.12

Fees **531**—13.6(2), *see also Licensure above*

Incentive programs **531**—13.6

Licenses, *see Licensure above*

Monitor vending machines, *see Monitor Vending Machines above*

Records **531**—13.9, 14.13(1)*c,k*, 14.26

Reports, tax **531**—14.30

Tickets **531**—1.8, 12.11, 13.2, 13.5–13.7, 13.10, 13.11, 14.12, 14.13(1)*e,o*, 14.21, 14.22, 14.24, 14.28, *see also specific game above; Prizes above*

Rule making **531**—1.2, chs 3, 4

Taxation

Local option **701**—107.9“1”

Reports **531**—14.30

Winnings **701**—40.24, 46.1(1)*d*

Tickets

See also Games above; Retailers above

Lottery division sales **531**—1.9

Printing contracts **531**—2.2(3)

Promotional use **531**—1.28

Purchase restrictions **531**—1.10

Sales **531**—1.5(3), 1.9, 1.28, 14.28, *see also Retailers above*

Signature **531**—11.4

Stolen/lost **531**—11.11

Types **531**—12.4(1)

Vendors, *see BIDS AND BIDDING*