



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

May 2010

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Senate Committee Room #116

Reference
XXXII IAB No. 21(04/07/10)
XXXII IAB No. 22(04/21/10)

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COMMUNITY ACTION AGENCIES

9:35

Family development and self-sufficiency (FaDSS) program, IAB Vol. XXXII, No. 21 ARC 8637B,

NOTICE.

The Division proposes rules implementing the FaDSS program; this program was moved from the Department of Human Services in 2008 by House File 2328 and is now codified in Code Supplement §216A.107. The purpose of the program is to fund, evaluate, and provide recommendations on programs that provide services to assist families at risk of instability or dependency on the family investment program to move toward self-sufficiency. The program is governed by an 18 member council which includes the directors of the Departments of Human Services, Education, Public Health, Workforce Development, and a variety of stakeholders, including four members of the General Assembly.

The rules establish criteria to identify families at risk; they include: the background, educational level and the work experience of the head of household, the size and living situation of the family, the public assistance history, and other relevant factors.

The program will provide grants for public or private service providers. Services can include: job-seeking skills, family budgeting, nutrition, self-esteem, methamphetamine

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education, health and hygiene, parenting and child education preparation, and goal setting. Grants may be for up to 36 months, subject to available funding.

### DEPARTMENT OF EDUCATION

9:45

*Community colleges*, IAB Vol. XXXII, No. 21, ARC 8646B, ADOPTED.

After a general comprehensive review involving the stakeholder groups, the Department is updating the standards for community colleges. The revisions are similar to existing provisions. The rules were initially reviewed by the Committee in January, 2010. The revision adds great detail for the various degree requirements. These can be summarized as:

- *Associate of arts (AA)*. Liberal arts and sciences requirements consisting of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.
- *Associate of science (AS)*. Mathematics or science requirements consisting of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.
- *Associate of general studies (AGS)*. A broad educational background consisting of a minimum
  - of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.
- *Associate of applied science (AAS)*. A program for entry-level career and technical occupations consisting of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours.
- *Associate of applied arts (AAA)*. A program for a specific field of work such as consisting of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours.
- *Diploma*. A program of a coherent sequence of courses consisting of a minimum of 15 semester (22.5 quarter) credit hours and a maximum of 48 semester (72 quarter) credit hours including at least 3 semester (4.5 quarter) credit hours of general education.
- *Certificate*. The certificate is a program designed for entry-level employment consisting of a maximum of 48 semester (72 quarter) credit hours.

The revision outlines a series of additional instructional formats in community colleges include a variety of alternatives to traditional classroom study:

- Accelerated courses that allow students to complete courses or programs at a faster pace than if offered by conventional methods.
- Distance education the Internet, Iowa Communications Network (ICN), or other electronic means.
- Correspondence courses which the instruction is delivered through written material, computer, television, or electronic means.
- Television courses primarily via broadcast television such as Iowa Public Television, digital video disc, or other media.

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- Video conference courses via a closed synchronous audio-video conferencing system such as the Iowa Communications Network
- Internet courses delivered via the Internet.
- In-class hybrid courses that combine traditional classroom and computer-based instruction.
- Self-paced instruction that permit a student to enter at variable times or progress at the student's own rate of speed.
- Arranged study offered to students at times other than stated or scheduled class times
- Multi-format nontraditional instruction utilizing a variety of nontraditional methods that may incorporate self-paced learning, text, video, computer instructional delivery, accelerated training, independent study, Internet delivery, or other methods.
- Individualized learning experiences.

### ENVIRONMENTAL PROTECTION COMMISSION

10:15

*Technical standards and corrective action: underground storage tanks, IAB XXXII No. 21, ARC 8676B, NOTICE.*

This rulemaking amends chapter 135 relating to the risk-based corrective action (RBCA) assessment process for underground storage tank releases. Sites are classified based on the level of risk; a three-tiered process, including sophisticated computer modeling, is used to evaluate risk.

This proposal changes the requirements for the replacement or relocation of certain water lines, based on the type of material used in the line. According to the EPC, the amendments revise the risk-based evaluation process for water lines by adding in gasketed drinking water lines and different action levels based on material composition and usage, allow consideration of "no action required" status if the contaminant plumes at low risk leaking underground storage tank sites are demonstrated to be stable and when an institutional control is implemented, and expand the Department of Natural Resources' authority to require confirmation sampling prior to acceptance of a no action required classification or to waive "exit monitoring" criteria when a groundwater professional can justify a no action required classification for the site. Existing policy regarding confirmation soil sampling has been added to update the rules with the current practice. This rulemaking also takes into account and incorporates recent research conducted by Iowa State University and the American Water Works Association Research Foundation. Three public hearings are scheduled during April 2010.

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### NATURAL RESOURCE COMMISSION

10:40

*Furbearer hunting and trapping, IAB Vol. XXXII, No. 21, ARC 8685B, Notice.*

This rulemaking proposes changes to the Commission's chapter relating to season dates, bag limits, possession limits and areas open to hunting or trapping furbearers. The amendments would add Adair, Cass, Guthrie, Keokuk, Louisa, Madison, Mahaska, Marion, Warren, and Washington Counties to the open area for taking bobcats and increase the quota from 200 to 250.

### INSPECTIONS AND APPEALS

11:00

*Food establishment and food processing plant inspections, IAB Vol. XXXII, No. 22, ARC 8697B, NOTICE, ARC 8696B, FILED EMERGENCY.*

Over 5,000 species of mushrooms grow naturally in North America. The vast majority have never been tested for toxicity. It is known that about 15 species are deadly and another 60 are toxic to humans whether they are consumed raw or cooked. An additional 36 species are suspected of being poisonous, whether raw or cooked. At least 40 other species are poisonous if eaten raw, but are safe after proper cooking. The federal Food and Drug Administration maintains a model food code. Iowa Code §137F.2 states:

137F.2 Adoption by rule.

The department shall, in accordance with chapter 17A, adopt rules setting minimum standards for entities covered under this chapter to protect consumers from foodborne illness. **In so doing, the department may adopt by reference, with or without amendment, the United States food and drug administration food code,** [emphasis added] which shall be specified by title and edition, date of publication, or similar information. The rules and standards shall be formulated in consultation with municipal corporations under agreement with the department, affected state agencies, and industry, professional, and consumer groups.

As it relates to wild mushrooms, the model food code states:

3-201.16 Wild Mushrooms.

A) Except as specified in (B) of this section, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

The Department emergency implements a state addition to the federal provisions. The federal provisions contain a generic inspection requirement for wild mushrooms, no detail is provided. The Iowa addition sets out specific requirements for the inspection of morel mushrooms prior to their sale at food establishments. The amendment establishes training requirements for a identification expert. The amendment allows an individual who has successfully completed a three-hour morel mushroom identification expert course (every three years) to procure or sell wild morel mushrooms to a food establishment.

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To meet the need for this training, Iowa State University is offering a 3-hour certification workshop on identifying morels and false morels. The workshop will be conducted by the ISU Department of Plant Pathology and will be offer twice in May, once in Cedar Rapids and once on the ISU campus. The cost is \$45.

## PHARMACY BOARD

11:30

*Controlled substances*, IAB Vol. XXXII, No. 21, ARC 8667B, NOTICE.

The amendments proposed by the Board clarify the form of identification to be reviewed by a pharmacist prior to dispensing products containing ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription and provide that purchase records be recorded in the real-time electronic repository established by the Governor's Office of Drug Control Policy (proposed in ARC 8666B). The amendments also establish the format and content of an alternate record to be maintained if the real-time electronic repository is temporarily unavailable for use and provide for a notice to purchasers warning of criminal penalties if a purchaser is found in violation of laws relating to the purchase of ephedrine, pseudoephedrine, or phenylpropanolamine.

\* \* \*

*Iowa real-time electronic pseudoephedrine tracking system*, IAB Vol. XXXII, No. 21, ARC 8666B, NOTICE.

These proposed rules establish a real-time electronic repository to monitor and control the sale of Schedule V products that are not listed in another controlled substance schedule and that contain any detectible amount of pseudoephedrine, its salts, or optical isomers, or salts of optical isomers; ephedrine; or phenylpropanolamine. In addition, the proposed rules identify the responsibilities of the parties involved. A pharmacy dispensing such products shall electronically report all such sales to a central repository under the control and administration of the Office of Drug Control Policy.

\* \* \*

*Support staff*, IAB Vol. XXXII, No. 21, ARC 8673B, ADOPTED.

Pharmacy technicians, certified pharmacy technicians, and pharmacy technician trainee's are currently regulated by the board. The duties that may be delegated to these technicians are currently set out in rule. 2009 Acts, House File 381 empowered the board to establish a "registration" program for pharmacy support persons who are not licensed pharmacists or registered pharmacy technicians. This registration is not a license; it serves for the purposes of identification, tracking, and disciplinary action. Beginning April 1, 2010, a pharmacy support person shall "register" with the board;

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registration does not include any determination of competency. Registration and renewal fees are both 30 dollars, there is no continuing education requirement. A pharmacy support person performs routine clerical and support functions. A support person does not perform any professional duties or any technical or dispensing duties. Examples of the duties that a support person may perform are outlined in this proposal.

### PUBLIC HEALTH DEPARTMENT

12:45

*Fluoroscopy*, IAB Vol. XXXII, No. 21, ARC 8659B, ADOPTED

The Department establishes by rule general requirements for the proper use of X-ray equipment and imaging systems by, or under the supervision of, an individual authorized and licensed "to engage in the healing arts or veterinary medicine."

Fluoroscopy is a type of X-ray imaging that can display motion, and is often used in chronic interventional pain management. This rule states that the use of fluoroscopy by radiologic technologists and students shall be performed under the direct supervision of a licensed practitioner (defined as a person licensed or otherwise authorized by law to practice medicine, osteopathy, chiropractic, podiatry, or dentistry in Iowa, or certified as a physician assistant), or an advanced registered nurse practitioner (ARNP).

This requirement is directly tied to rules promulgated by the Board of Nursing in July, 2009 which allows an ARNP to provide direct supervision in the use of fluoroscopic equipment; the nurse must collaborate "as needed" with a physician. It should be noted that the acronym ARNP, used in both the Nursing Board rules and in this filing is a broad term, which includes a certified clinical nurse specialist, a certified nurse-midwife, a certified nurse practitioner, and a certified registered nurse anesthetist. Thus under both the Board of Nursing rules and this filing the supervision of fluoroscopy is *not* limited to a certified registered nurse anesthetist.

This filing may also be impacted by rules proposed by the Board of Medicine which defines chronic pain management as the practice of medicine.

\* \* \*

*Emergency medical services - air medical service program authorization*, IAB Vol. XXXII, No. 21, ARC 8662B, ADOPTED.

The Department implements a new chapter 144 establishing requirements for the air medical service program authorization. The rules provide various definitions for the administration of the program, including definitions for the various medical service providers and the different types of air ambulance service. The rules outline the general

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authority of an emergency medical care provider to render medical care as part of an authorized service program.

The rules establish the application procedures for an air ambulance service that desires to acquire an authorization to provide emergency medical care in an out-of-hospital setting. The rules require the applicant to operate in compliance with Iowa Code chapter 147A. An authorization is valid for three years. The rules establish requirements for the levels of care and staff, requirements relating to the air ambulance equipment and vehicles used, requirements for telecommunications systems employed by the program, and requirements for reporting certain incidents and patient data.

The rules also establish requirements and duties of the medical director for the program, including duties relating to the development and maintenance of program protocols, monitoring and evaluation of program activities, and assessment of personnel performance. The rules establish procedures for the investigation and disposition of complaints. The rules also include provisions governing the operation of an out-of-state air ambulance service program.

\* \* \*

*State plumbing code, IAB Vol. XXXII, No. 22, ARC 8703B, NOTICE.*

The Plumbing and Mechanical Systems Board is proposing a significant revision to chapter 25, "State Plumbing Code." Chapter 25 describes the minimum standards for plumbing materials and plumbing methods in buildings and on premises in Iowa. Unlike the building code, the state plumbing code is applicable to the plumbing in buildings or on premises within cities and to plumbing in a building or on premises located outside the corporate limits of any city if the building or premises is served by an individual connection to a municipally owned water distribution system or wastewater collection system.

A committee of the Plumbing and Mechanical Systems Board was formed to revise the rules. The committee solicited input from stakeholders starting in August 2009, including representatives of the national model codes, architects, building and plumbing officials, developers and building contractors, plumbing contractors, the organized plumbing trade, and individual tradespersons.

This rulemaking proposes the following major changes to the existing rules:

- Certain current rules reference the Uniform Plumbing Code, 2000 Edition. The references are updated to the Uniform Plumbing Code, 2009 Edition.

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- The code will include storm drainage provisions and standards for nonpotable water reuse systems.
- The fuel piping provisions of the Uniform Plumbing Code will be included subject to the requirements of the State Fire Marshal.
- New rule 641—25.2 applies the provisions of the code to all buildings and premises in Iowa.
- The new rules reference Uniform Plumbing Code, 2009 Edition, Chapter 12, as the standard for fuel gas piping but establishes the primacy of rules promulgated by the State Fire Marshal Division, Iowa Department of Public Safety.
- Certain previously adopted amendments to the Uniform Plumbing Code are eliminated because of changes in the 2009 Edition and to limit the number of amendments to the extent practical.
- The new rules replace the section and table in the Uniform Plumbing Code specifying required plumbing fixtures with the equivalent section and table from the International Plumbing Code, 2009 Edition.

A public hearing is scheduled for May 11, 2010. The public hearing will be available over the ICN at 14 locations throughout the state.

### HUMAN SERVICES DEPARTMENT

1:45

*Child care centers*, IAB XXXII No. 21, ARC8650B, ADOPTED.

These provisions were initially reviewed by the Committee in October 2009 and then again in April 2010. The rules implement Iowa Code § 237A.4A(1), by imposing a biennial fee ranging from \$50 for a center with the capacity to care for up to 20 children to \$150 for a center with the capacity to care for more than 150 children. The Code also requires a national criminal history check through the Federal Bureau of Investigation—at the cost of the center. This check applies to each owner, director, staff member, substitute, volunteer, or subcontracted staff person with direct responsibility for child care or with access to a child when the child is alone.

The rules require a detailed procedure for handling biting incidents, including “[a]n explanation of the center’s perspective on biting” and a procedure ensuring that unauthorized persons do not get access to the children.

### NO REPRESENTATIVE REQUESTED

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

No Rep

*Nonchemical pest control devices*, IAB XXXII No. 22, ARC 8704B, ADOPTED.

These provisions were initially review by the Committee in March; they were not controversial. Code §206.3 provides that the examination of pesticides is made under the direction of the secretary to determine whether they comply with the requirements



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of Chapter 206. Due to the increased marketing of nonchemical pest control devices (eg: sonic) the department is exercising that authority and proposes that manufacturers submit “efficacy and safety data” prior to sale, including furnishing specimen devices or samples.

Department staff will test the device to ascertain the reliability, efficacy and safety data of the device and actual or potential adverse effects of the device upon human health and safety. The costs of conducting the examination or test are be borne by the manufacturer or the manufacturer’s representative.