



THE RULES DIGEST

October 2011

Scheduled for Committee review
October 11th, 2011
Room #116

Reference
XXXIV IAB No. 05(09/07/11)
XXXIV IAB No. 06(09/21/11)

HIGHLIGHTS IN THIS ISSUE:

<i>CONFIDENTIAL EMPLOYEES, Administrative Services department</i>	2
<i>ENDOW IOWA TAX CREDITS, Economic Development Department</i>	2
<i>AIR QUALITY--CARBON DIOXIDE EMISSIONS, EPC,</i>	3
<i>PHARMACY CLOSING, Pharmacy Board</i>	4
<i>IOWACARE, Human Services Department</i>	4

DEPARTMENT OF EDUCATION

10:00

Senior year plus program: transportation, 08/24/11 IAB, ARC 9684B, NOTICE.

The Senior Year Plus Program allows high school seniors to enroll in college-level courses at community colleges. 2011 Acts, Senate File 470, §12 struck language in Iowa Code §261E.8 which provided:

5. The parent or legal guardian of a student who has enrolled in and is attending a community college under this section shall furnish transportation to and from the community college for the student.

That rescission originated in the Department's initial bill request and was set out in all versions of the bill.

The Department states that school districts receive supplementary state funds for students who participate in concurrent enrollment courses, and that in part these funds are to assist a school district in providing student transportation to and from concurrent enrollment courses. This principle is currently set out in the Department's 2009 guide

relating to the Senior Year Plus program; with the enactment of SF 470, the Department now proposes to codify that principle in rule.

DEPARTMENT OF ADMINISTRATIVE SERVICES

10:15

Confidential employees, 09/07/11 IAB, ARC 9738B, NOTICE.

This proposal is a general re-write of the Department's IT and personnel rules; this is the first installment of what will be a complete review of all the Department rules. One provision sets out a new definition for a confidential employee:

ITEM 14. Rescind the definition of "Confidential employee" in rule **11—50.1(8A)** and adopt the following **new** definition in lieu thereof:

"Confidential employee" means any public employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in negotiating or who works in a close continuing working relationship with public officers or representatives associated with negotiating on behalf of the public employer.

This definition is taken from Iowa Code Chapter 20 (Iowa Code §20.3), relating to collective bargaining and would replace a more detailed definition that is currently in place. Department representatives state the intention is to have a single definition of confidential employee, which is based on the Code itself. Stakeholders are concerned this definition will apply to any employee working in human resources and remove them from merit system protection, making them simply "at will" employees. Stakeholders contend that the proposed definition is over inclusive, and that those human resources employees who are not involved in collective bargaining should not be excluded from merit protection.

DEPARTMENT OF ECONOMIC DEVELOPMENT

10:30

Endow Iowa tax credits, 09/07/11 IAB, ARC 9748B, NOTICE.

Endow Iowa allows taxpayers to receive a 25% Iowa tax credit *in addition to* normal federal charitable income tax deductions for certain charitable gifts. The gift must be to an endowment fund within the qualified foundation or community affiliate organization.

Endowed funds are intended to exist in perpetuity, and to implement an annual spend rate not to exceed 5 percent.

The tax credits can be claimed by individuals, businesses, or financial institutions. Approximately \$4.5 million in Endow Iowa Tax Credits will be awarded in 2011.

As a result of 2011 Iowa Acts, House File 590, beginning calendar year 2011 the annual base authorization amount of available tax credits is \$3.5 million. The additional amount varies each year according to the amount of gambling revenues collected in the prior year. For 2011, the aggregate amount of available tax credits is \$4,551,813. The maximum amount of tax credit that an individual taxpayer may claim is limited to 5 percent of the aggregate amount available each year. For 2011, the maximum amount of tax credit available to a single taxpayer is \$227,590.65.

ENVIRONMENTAL PROTECTION COMMISSION

10:50

Air quality--carbon dioxide emissions, 09/07/11 IAB, ARC 9736B, NOTICE.

The U.S. Environmental Protection Agency (EPA) recently finalized regulations deferring for a three-year period the counting of CO₂ emissions from biogenic sources toward applicability of the PSD and Title V air quality programs. The EPA definition of biogenic emissions of CO₂ includes fermentation processes at ethanol plants and combustion of biomass such as wood or other vegetative matter at power plants or industrial facilities. During this three-year deferral period, EPA states that it “will conduct a detailed examination of the science associated with biogenic CO₂ emissions from stationary sources. This study will consider technical issues that [EPA] must resolve in order to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.” At the end of the deferral period, EPA may or may not decide to exempt CO₂ emissions from biogenic sources. If EPA decides to include CO₂ emissions from biogenic sources, it has indicated that it will not conduct a “look-back” at facilities that, during the deferral period, did not count CO₂ emissions from biogenic sources toward PSD applicability. This rule making amends the rules for the PSD and Title V programs to include this three-year deferral on counting of biogenic emissions. If this rule making were not carried out, state rules for the PSD and Title V programs would be more stringent than federal regulations, which is prohibited by state law.

PHARMACY BOARD

11:25

Pharmacy practice -- prescriptions, 08/10/11 IAB, ARC 9671B, NOTICE, rescheduled from September meeting.

This rule making clarifies the required elements of a valid prescription regardless of the method used to generate or prepare the prescription or the means of transmission or delivery of the prescription to the dispensing pharmacy. The amendments identify the requirements for a written prescription; for an oral prescription; for a prescription transmitted to a pharmacy via facsimile; and for a prescription that is electronically prepared, signed, and transmitted to the pharmacy. Additional requirements are identified for prescriptions that are electronically prepared but subsequently printed or transmitted to the pharmacy via facsimile. The requirements for electronic prescribing of controlled substances, as established by the federal Drug Enforcement Administration (DEA), are addressed, and amendments are proposed to authorize the electronic prescribing of controlled substances pursuant to DEA requirements. Recordkeeping requirements for electronically prepared prescriptions, electronic prescriptions, and prescriptions transmitted via facsimile are identified. The requirements for identification of the prescriber's agent who completes the transmission of a prescription to a pharmacy are clarified to include the first and last names and the title of the prescriber's agent.

PHARMACY BOARD

11:25

Pharmacy closing, 09/07/11 IAB, ARC 9693B, EMERGENCY.

The initial filing was published in June; in part it contained a provision for closing a pharmacy and the transfer of records to the receiving pharmacy. This portion of the filing was controversial with both the pharmacy and patient representatives. Pharmacy representatives were concerned that notification of prescription holders of the sale would actually harm the sale itself, by encouraging patients to move their prescriptions. Patient representatives had the opposite concern, notifications were not adequate. The committee placed a 70 day delay on that provision.

This filing rescinds the previous provision and offers a revised version, relating to the responsibilities of the pharmacies when a pharmacy closes. The closing pharmacy must notify the board and the federal DEA at least 30 days prior to the pharmacy closing. The pharmacist in charge of the closing pharmacy must be given at least 40 days notice. Patients must be notified at least 30 days prior to the date of closing.

The filing also contains confidentiality provisions. The filing requires that the closing pharmacy ensure the transfer of all patient records to a pharmacy that is held to the same standards of confidentiality as the closing pharmacy and that agrees to act as custodian for the closing pharmacy's records for the retention periods required under federal and state laws and rules.

HUMAN SERVICES DEPARTMENT

11:50

IowaCare, 09/07/11 IAB, ARC 9729B, NOTICE; ARC 9728B EMERGENCY.

In response to concerns expressed by federally qualified health centers designated as IowaCare medical home providers about their limited ability to provide certain medically necessary care to IowaCare members, the Eighty-Fourth General Assembly created two new capped funding pools, a care coordination pool and a laboratory test and radiology pool. These pools will help medical homes defray the cost for medically necessary care not otherwise covered under IowaCare. Failure to provide the services covered by these pools may result in readmission to a hospital. These amendments:

- Establish covered services to be reimbursed through the new funding pools;
- Establish protocols for referral of IowaCare members to another provider;
- Make a technical correction to clarify that members are assigned to, rather than enrolled in, medical homes;
- Require IowaCare providers to develop a process to improve communication and resolve care disputes when referring members for specialty and hospital care.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Rating for ethanol blended gasoline, 09/21/11 IAB, ARC 9757B, NOTICE.

The proposed amendments would allow gasoline which contains greater than 10 percent ethanol by volume and up to 15 percent ethanol by volume (E-15) to be sold from the same hose as other registered gasoline products. The "for flex fuel only" sticker would no longer be required on pumps using this E-10. Pumps with ethanol classified as higher than E-10 would be required to have the federal sticker identifying the fuel as up to 15 percent ethanol for use only in flex-fuel vehicles and model year 2001 and newer passenger vehicles. The octane rating of fuel could be posted once the testing form is approved for ethanol fuel classified as higher than E-10 and up to E-15. Final action will not be taken on these amendments until gasoline that contains greater than 10 percent

ethanol by volume and up to 15 percent ethanol by volume (E-15) becomes a registered fuel with the EPA.