



THE RULES DIGEST

November
2011

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Room #116

Reference
XXXIV IAB No. 07(10/05/11)
XXXIV IAB No. 08(10/19/11)

HIGHLIGHTS IN THIS ISSUE:

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PHARMACY BOARD

10:40

Pharmacy internet sites, 10/05 IAB, ARC 9789B, NOTICE.

This rulemaking establishes the requirements for the internet sale of prescriptions by pharmacies and for accreditation by the National Association of Boards of Pharmacy (NABP) as a verified internet pharmacy practice site (VIPPS). The proposed rules identify specific information that must be displayed on a pharmacy internet site and establish requirements for site registration with the Board. Terms used in the chapter are defined, prescription requirements are identified and responsibilities established, and record-keeping requirements are established. The proposed rules also establish grounds for denial of an application for pharmacy internet site registration or registration renewal and for disciplinary action and identify appeal processes and sanctions relating to those actions.

PHARMACY BOARD

10:40

Tech-check-tech, 10/05/11 IAB, ARC 9783B, ADOPTED.

Generally, a pharmacist may delegate technical dispensing functions to pharmacy technicians, but only if the pharmacist is physically present to verify the accuracy and completeness of the patient’s prescription prior to the delivery of the prescription.

However, the physical presence requirement does not apply when a pharmacist is utilizing an automated dispensing system or a tech-check-tech program.

The “tech-check-tech program” is a program allowing one or more certified pharmacy technicians to safely check the work of other certified pharmacy technicians and provide final verification for drugs which are dispensed for subsequent administration to patients in a care facility, hospital or other institutional setting.

These proposed rules authorize the establishment of a tech-check-tech program in a hospital pharmacy or in a general pharmacy which provides services to a residential care facility. The program must be approved by the board. The facility must establish a training program under the direction of a pharmacist, which includes the prevention, identification, and classification of medication errors. The responsible pharmacist must continuously monitor and evaluate of each certified pharmacy technician participating in the program in order to ensure the continued competency of the technicians and the safety of patients.

Under the program a certified technician may check activities relating to the filling of floor stock, unit dose distribution systems, proprietary bag and vial systems or manufactured premix intravenous products, and AMDS components for hospital and long-term care facility patients.

PUBLIC HEALTH DEPARTMENT

11:40

Local health departments, 10/05 IAB, ARC 9773B, ADOPTED.

Iowa Code Chapter 137 creates three categories of local health departments, city, county and district. District boards are created with the joining of two or more counties, the mergers must be approved by the department. All boards are empowered to enforce state health laws and the rules and orders of the Department. Board provide a myriad of health and environmental services; they have independent rule making power that is not subject to Iowa Code Chapter 17A.

These rules provide additional details concerning the functions of these boards, including board organization, duties, and membership.

REVENUE DEPARTMENT

1:15

Taxable telecommunication service, 10/19/11 IAB, ARC 9814B, ADOPTED.

The Department updates existing rules related to the taxation of telecommunication services. These changes in part implement the Streamlined Sales and Use Tax Act. That Act is an interstate compact to simplify and standardize laws and rules relating to sales tax, in order to facilitate and enable remote collection of sales tax. Taxable services include: radio telephone service; conference bridging service; fixed and mobile wireless service; pay telephone service; prepaid service; and residential telecommunication service. Taxable services do not include: internet services; communications billing services; non-voice data service; certain enhanced 911 service; and certain fees.

VOTER REGISTRATION COMMISSION

1:40

Voter notifications, 10/19 IAB, ARC 9810B, NOTICE.

These proposed rules would require county commissioners to send a notice to a voter when the voter's primary or general election polling place is permanently changed. Currently, voters across the state are treated inconsistently when polling place locations are permanently changed. Some receive notices mailed to their residences and other voters must rely on the election publications or contact the county commissioner's office to determine the location of the voter's polling place. The proposed rules require county commissioners to notify all active registered voters affected by a permanent primary or general election polling place change of their new polling place location. The rules provide commissioners with the discretion to send notices to each household with an active registered voter affected by the polling place change or to each active registered voter.

PUBLIC EMPLOYMENT RELATIONS BOARD

2:10

Decertification elections, 10/05/11 IAB, ARC 9795B, NOTICE.

Current Public Employment Relations Board (PERB) rules provide that in a decertification election to determine whether an employee organization (i.e., a union) will continue as the exclusive representative of a particular bargaining unit, a tie vote results in the union continuing as the bargaining unit's representative. Tie votes have in fact occurred, as recently as the current year, and in accord with the existing rule, the union's exclusive representation has continued. Under this proposed rule, if a tie vote

occurs, the union would be decertified (i.e., not continue) as the representative of the bargaining unit.

PERB believes that under a proper interpretation of Iowa Code chapter 20, certification or decertification is dependent upon the union's receipt of a majority of the votes cast. The board's position that a tie vote in a decertification election properly results in the union's decertification because the tie shows that the union's majority support no longer exists.

The board states that the proposed rule is consistent with the practice of the National Labor Relations Board in private sector decertification proceedings, where ties in decertification elections result in the existing representative's decertification because the election has revealed that the union no longer has the majority support of the voters. The board notes this is also consistent with the established PERB practice in initial certification elections, where a union must obtain a majority of the votes cast in order to attain exclusive representative status. Iowa Code §20.14 relates to the types of collective bargaining representation petitions that may be filed with the board. Board representatives cite in support of this rule making subsection 20.14(3), which provides in part:

20.14 Bargaining representative determination.

* * *

3. The petition of a public employee shall allege that an employee organization which has been certified as the **bargaining representative does not represent a majority of such public employees and that the petitioners do not want to be represented by an employee organization** [emphasis added] or seek certification of an employee organization.

The Board states a tie vote in such an election validates the petitioning employee's claim that the organization no longer has the majority support it held at the time it was certified, and that it is thus no longer entitled to its certified status.

Iowa Code subsections 20.14(1) and (5), provide that an election resulting from these representation petitions are to be conducted under the procedures set out in §20.15. That section, in two places, refers to a majority vote. Subsections (2) and (5) provide in part:

2. If a majority of the votes cast on the question is for no bargaining representation, the public employees in the bargaining unit found appropriate by the board shall not be represented by an employee organization. If a majority of the votes cast on the question is for a listed employee organization, then that employee organization shall represent the public employees in the bargaining unit found appropriate by the board.

* * *

5. Upon completion of a valid election in which the majority choice of the employees voting is determined, the board shall certify the results of the election and shall give reasonable notice of the order to all employee organizations listed on the ballot, the public employers, and the public employees in the appropriate bargaining unit.

It should be noted that §§20.14 and 20.15 do not fit together perfectly. The language of §20.15 refers generally to elections, but is actually geared toward the initial certification election. Subsections 1, 3 and 6“a” relate specifically to initial certification elections. The board believes that subsection 2 also relates only to initial certification elections, but notes that no part of §20.15 addresses the result of a tie vote in any kind of election and believes that §20.14(3) shows the intent that majority support is required in order for a union to keep its representative status.

PUBLIC SAFETY DEPARTMENT

No Rep.

Electrician licensure, 10/19/11 IAB, ARC 9811, ADOPTED

These amendments to the rules for the statewide electrician and electrical contractor licensing program are intended to simplify for many electricians the process of achieving licensure as journeyman electricians, by providing alternative pathways to attaining eligibility for such licensure. The amendments are also clarify that apprentice electricians and unclassified persons may work under the supervision of residential electricians on residential jobs and that residential master electricians may provide required general supervision of journeyman electricians on residential jobs. The amendments also permit issuance of a license without examination to a person who holds an equivalent license in a state which has entered into a reciprocal license agreement with the Iowa Electrical Examining Board.

TREASURER

No Rep.

Unclaimed property, 10/19/11 IAB, ARC 9814B, NOTICE.

The Treasurer periodically updates rules which implement the Iowa Code chapter 556, the Uniform Disposition of Unclaimed Property Act. Under Iowa Code Chapter 556 unclaimed property can include both tangible and intangible property (cash, stocks coupons, etc). Every person holding funds or other type of property which is presumed abandoned, must report to the state treasurer. On payment or delivery of property to the treasurer the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the treasurer of state in good faith is relieved of all liability with respect to the property. All abandoned property other than money delivered to the state treasurer under this chapter which remains unclaimed may be sold to the highest bidder at public sale.

The proposal adds provisions regulating “*dormancy fees*” meaning a fee or a service charge that results in the reduction of an account balance or property value, which is not directly related to a transaction initiated by an owner. These fees are sometimes imposed on gift cards, back accounts, etc., that are inactive for a period of time. Chapter 556 places specific limits on these charges.