



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

July 2013

Scheduled for Committee review
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Room #116

Reference
XXXV IAB No. 25(06/12/13)
XXXV IAB No 26(06/26/13)

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AGRICULTURE AND LAND STEWARDSHIP

9:25

Savannah cats, 06/26/13 IAB, ARC 0786C, NOTICE.

An issue that has lasted for six years is now resolved. In 2007 the legislature enacted a wild animal law imposing new restrictions on keeping dangerous wild animals. The Act defined these animals in great detail. Under the Act it is unlawful to own, possess or transport a dangerous wild animal in Iowa. A number of persons who keep exotic pets opposed the new law; these include owners of "savannah cats". These cats are a cross between servals (an African wild cat which is a dangerous animal under the 2007 Act) and domestic cats. The statute has now been revised to allow a cross between a domestic cat and a bengal or savannah as long as the bengal or savannah is the fourth or later filial generation of offspring.

EDUCATION DEPARTMENT

9:45

Medicaid payments for special education, 06/26/13 IAB, ARC 0814C, ADOPTED.

The federal government now allows schools to access Medicaid to pay for special education services, as part of the "free and appropriate education" (FAPE) standards. Federal regulation requires one-time consent and written notification for schools to access Medicaid or other public insurance benefits and then annual notification. The Medicaid expansion ensures that all services necessary to provide FAPE are provided to

children with disabilities at no cost to the parent, including services such as assistive technology devices or assistive technology services, related services, supplementary aids and services, and transition services.

EDUCATION DEPARTMENT

9:20

Standards for school administration manager programs, 06/26/13 IAB, ARC 0813C, ADOPTED.

These rules set out a process for approving training programs for school administrators. Approval of new programs is for a period of seven years. Existing programs are “grandfathered” for five years; at that point they must complete the approval process.

The proposal sets out six general standards and a variety of criteria that detail the components of school administration; the standards set out technological competencies, human resources management requirements, and professional qualities.

INSPECTIONS AND APPEALS DEPARTMENT

10:10

Nurse delegation in elder group homes, assisted living programs and adult day services, 06/26/13 IAB, ARC 0809C, NOTICE.

The department proposes rules detailing the delegation of nursing responsibilities by a registered nurse. The registered nurse (R.N.) at each facility is responsible to ensure that all facility staff are competent to meet the individual needs of tenants. The R.N. must document a staff review to document that staff is sufficiently trained and competent in all tasks that are assigned or delegated. Staff must be appropriately trained within 30 days of employment. Noncertified staff training shall include, at a minimum, the provision of daily self-care activities and instrumental activities of daily living. All staff must receive training regarding service plan tasks such as wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants’ health, cognitive or functional status.

The R.N. must provide direct or indirect supervision of all staff as necessary in the professional judgment of the R.N. and in accordance with the needs of the tenants and the staff. The staff shall provide services in accordance with their level of training.

The facility shall have in place a system by which the staff communicates in writing occurrences that differ from the tenant’s normal health, functional and cognitive status. The R.N. or designee shall train staff on reporting and documenting these occurrences.

The written communication shall be retained for not less than three years, and shall be accessible to the department.

A staff member shall not be designated as attorney-in-fact, guardian, conservator, or representative payee for a tenant unless the person is related to the tenant by blood, marriage, or adoption.

INSPECTIONS AND APPEALS DEPARTMENT

10:10

Criminal background checks, 06/26/13 IAB, ARC 0808C, NOTICE.

2013 Iowa Acts, Senate File 347 requires elder group homes, assisted living programs and adult day services programs to conduct criminal history record checks and child abuse and dependent adult abuse record checks of prospective employees. Prior to employment in an elder group home, assisted living program and adult day services program the facility must request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state. A person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed unless an evaluation has been performed by the department of human services to determine whether the crime warrants prohibition of the person's employment.

If an employee is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment, the person shall inform the employer of such information within 48 hours. The facility shall act to verify the information within 48 hours of notification. If the information is verified, the facility may continue to employ the person pending the performance of an evaluation by the department of human services.

INSURANCE DIVISION

10:20

Regulation of navigators, 06/26/13 IAB, ARC 0816C, NOTICE.

The federal "Affordable Care Act" (ACA) requires state health insurance marketplaces to establish a "navigator" program that will help individuals who are eligible to purchase coverage through a health insurance marketplace to learn about their new coverage options and enroll. States can award grants to entities that will provide these services.

No person may act as a navigator until issued a 3 year Iowa navigator license.

Applicants must:

- Be at least 18 years of age;
- Comply with the initial training and certification requirements. Individual navigators shall complete a minimum of 32 credits of initial training in courses approved by the commissioner. Initial training must include a minimum of 2 credits of Iowa-specific training on Medicaid and healthy and well kids in Iowa program training, as well as a minimum of credit in the subject of ethics;
- Have not committed any act that is grounds for license denial, suspension or revocation;
- Submit a completed uniform application;
- Pass an examination with a score of 70 percent or higher;
- Pay the nonrefundable navigator license fee of \$20;
- Pass a background check or security screening.

Licensees must demonstrate financial responsibility and maintain evidence of financial responsibility in the form of a surety bond or other alternative financial responsibility instrument that protects individuals and entities against wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator, or other violation of insurance law. The minimum coverage for financial responsibility shall be \$50,000.

Prior to license renewal individual navigators must complete a minimum of 36 continuing education credits for each continuing education term in courses approved by the commissioner on subjects relevant to navigators, including health insurance, tax credits, tax penalties, Medicaid, the healthy and well kids in Iowa program, health care-related public assistance programs, or ACA-related topics.

LAW ENFORCEMENT ACADEMY

10:45

Mental health training, 06/12/13 IAB, ARC 0782C, NOTICE.

The Academy both trains and licenses Iowa's law enforcement officers; part of that responsibility includes mandating in-service training. The Academy proposes a new mental health component. Within one year each regular and reserve law enforcement officer shall complete a minimum of 4 hours of mental health training from a course of study approved by the academy. Each officer must also complete a minimum of 1 hour per year, or 4 hours every 4 years, of mental health training from an approved course of

study. This annual in-service training is separate from and in addition to any other in-service training requirements.

PUBLIC SAFETY DEPARTMENT

11:15

Electrical installations on farm property, 06/12/13 IAB, ARC 0791C, NOTICE.

Iowa Code §103.23 requires inspection for “[a]ll new electrical installations for *commercial or industrial applications*.” [emphasis added] In 2009 the Electrical Examining Board promulgated rules requiring permits and inspections for farm installations. Department representatives stated that farm installations fell within the commercial and industrial category and inspections were required for farm installations. Opponents of this rule contended that the commercial and industrial language demonstrated a legislative intent to exclude farm operations. A gubernatorial objection and litigation followed. In January 2013 the District court in Carroll County determined that the rules were “in valid and unenforceable”. In part the Court stated:

The logical conclusion is that if the legislature intended for all agricultural electrical installations to be regulated by Chapter 103, the legislature would have specifically included those installations.

* * *

Looking to what the legislature said, not what they could have or might have said, leads to the conclusion that the legislature did not intend for all agricultural installations to be regulated by Chapter 103.

In order to comply with the district court’s ruling, the board has proposed to change the definition of “farm” and clarify that, although permit and inspection requirements generally do not apply to farm property, the other statutory provisions regarding residences and “commercial” activities (such as a retail facility open to the public) are subject to permit and inspection requirements. Finally, farmers may choose to seek a permit or inspection, so the proposed amendments also contemplate a voluntary request by the property owner.

VETERANS AFFAIRS DEPARTMENT

11:50

Veterans Trust Fund, 06/26/13 IAB, ARC 0800C, NOTICE.

The department proposes a number of revisions to the Veteran’s Trust Fund. The Iowa Commission of Veterans Affairs may not award benefits if the available liquid assets of the veteran are in excess of \$15,000, including IRAs, Keogh plans or deferred

compensation plans. Travel expenses for wounded veterans and their spouses, for medical treatment is limited to \$1,000 or ten days of total reimbursement annually.

Unemployment benefits are limited to veterans with less than a 100% permanent and total disability rating; such veterans are, by definition, unemployable and therefore not eligible for this benefit.

Certain services are now capped. The lifetime maximum may not exceed \$5,000 for dental care, \$1,000 for vision care, \$3,000 for hearing care, and \$3,000 for prescription drugs. Durable equipment or services to allow a veteran, to remain at home is limited to \$2,500.

PHARMACY BOARD

12:00

EMERGENCY FILING REVIEW, Listing of schedule 1 substances.

Pursuant to House File 586 this “emergency” filing must be reviewed and approved by the Committee before it can be effective. This filing temporarily classifies three synthetic cannabinoids as Schedule I controlled substances in conformance with recent designations by the federal government. The substances have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and lack accepted safety for use under medical supervision.

HISTORICAL DIVISION

12:05

EMERGENCY FILING REVIEW, Entertainment District Tax Credits.

Pursuant to House File 586 this “emergency” filing must be reviewed and approved by the Committee before it can be effective. This filing implements 2013 Iowa Acts, Senate File 436. It defines commercial and non-commercial properties; changes the threshold for commercial projects; raises the cap for small projects to \$750,000; and allows for a 12 month extension for a project that reaches 60 months and is not complete but has already expended at least 50% of their qualified rehabilitation expenses.