



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

August 2013

Scheduled for Committee review
Tuesday, August 6th 2013
Room #116

Reference
XXXVI IAB No. 01(07/10/13)
XXXVI IAB No 02(07/24/13)

HIGHLIGHTS IN THIS ISSUE:

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ENVIRONMENTAL PROTECTION COMMISSION

8:35

Unstaffed UST tanks, 07/24/13 IAB, ARC 0836C, NOTICE.

Leak detection in underground storage tanks (UST) has always been a major concern, especially when the facility has no on-site personnel. These systems must have either a leak detector capable of shutting off the submersible pump or a device that immediately alerts the operator when a leak is detected. The operator must be on site within two hours of notification. In 2010 the Committee objected to this provision; the committee questioned whether the EPC had statutory authority for the requirement. Iowa Code §455B.474A states, in part, "The rules adopted by the commission under section 455B.474 shall be consistent with and shall not exceed the requirements of federal regulations relating to the regulation of underground storage tanks" Since federal regulations do not have specific leak detection requirements for unstaffed fueling facilities, the Committee believes the plain language of §455B.474(10) precludes this rulemaking.

In January the EPC emergency adopted provisions extending a current compliance extension from January 1, 2013 to January 1, 2014 if it can be shown that there is no reasonable alternative fueling source in the vicinity or fueling is needed to satisfy emergency or public safety considerations. The ARRC approved that extension at its' February meeting.

This proposal allows existing in-line leak detection methods to be used when the UST facility is unattended, with additional requirements to ensure that detected releases are addressed. The proposal allows for immediate shutdown of the submersible pump when a release is detected. It also allows for flow restriction or the triggering of an audible or visual alarm when a leak is detected and either notification to or a daily visit by the facility's operator. Notification can occur either by immediate electronic communication of a release from the leak detection monitor or by signage at the site with a telephone number directing the customer to call the operator or designee when a potential release is indicated.

EDUCATIONAL EXAMINERS BOARD

10:15

School administration manager authorization, 07/24/13 IAB, ARC 0877C, NOTICE.

The proposed rule will require that anyone performing the duties of a school administration manager (SAM) hold the proper authorization from the Board. The proposed rule accompanies a proposed rule by the Department of Education establishing standards for SAM programs that was reviewed by the Committee in July. The proposed rule includes standards for applying for an authorization; requirements to receive an authorization, including education, training, and competencies; and processes for renewal, revocation, and suspension of the authorization and for approval of training courses.

HUMAN SERVICES DEPARTMENT

11:20

Mental health and disability regional core services, 07/24/13 IAB, ARC 0885C, NOTICE.

The proposed amendments define core services that mental health and disability services (MHDS) regions must offer to eligible individuals. 2012 Iowa Acts, chapter 1120, section 15, requires the Department to define regional core services. Access standards and provider practice standards for these services are also defined. An MHDS region may also provide other services, and the proposed amendments identify the requirements an MHDS region must meet when its ability to provide other services is determined. The proposed amendments provide that MHDS regions must identify and contract with core service providers to ensure adequate access to service providers

and that regions must also incorporate this information into their regional service system management plans.

HUMAN SERVICES DEPARTMENT

11:20

Prior authorization required for skilled nursing care in hospital swing bed, 07/24/13 IAB, ARC 0843C, NOTICE; also ARC 844C, EMERGENCY.

This amendment requires prior authorization for initial admission to or continued stay in a certified hospital “swing bed” for a member who no longer requires acute (inpatient) hospital care and who would otherwise meet a nursing facility or skilled level of care (LOC).

As part of the hospital’s discharge planning process for members requiring ongoing skilled nursing care, the hospital must contact skilled nursing facilities within a 30-mile radius of the hospital to determine if any of those facilities have available beds and are otherwise able to meet the member’s LOC needs. Initial or ongoing swing-bed admissions will only be approved if the hospital certifies that there are no available skilled nursing beds in a freestanding facility to meet the member’s LOC needs within a 30-mile radius. A Medicaid member who has been admitted to a swing bed must be discharged to an appropriate nursing facility bed within 72 hours of an appropriate nursing facility bed becoming available, unless the member’s needs cannot be met in freestanding skilled nursing facilities.

HUMAN SERVICES DEPARTMENT

11:20

IowaCare—suspension of enrollment beginning July 1, 2013, 07/24/13 IAB, ARC 0861C, NOTICE; also ARC 862C, EMERGENCY.

These amendments codify policies regarding a suspension of enrollment in IowaCare implemented on July 1, 2013, based on funding for state fiscal year 2013-2014 and pursuant to the amended terms of the waiver of Title XIX requirements allowing federal funding for the IowaCare program. The federal Centers for Medicare and Medicaid Services approved the amended waiver. These amendments will codify the limit set by the amended waiver on the number of members allowed to participate in the program and specify how new members will be added within the enrollment cap. The program accepted applications through June 30, 2013. The enrollment cap will be established at the number of enrolled members in the program when all applications

filed prior to July 1, 2013, have been processed. Enrolled members will be allowed to renew coverage if their enrollment period expires after July 1, 2013. Enrollment was suspended in order to maintain quality of care given available funds and to assist in the phasing out of IowaCare, which is scheduled to sunset on December 31, 2013, and in transitioning current enrollees into the new health care coverage structure that will be effective January 1, 2014.

HUMAN SERVICES DEPARTMENT

11:20

Integrated health home services for members with serious mental illness or emotional disturbance, 07/24/13 IAB, ARC 0838C, FILED EMERGENCY AFTER NOTICE.

These amendments implement the integrated health home for members with a serious mental illness (SMI) or a serious emotional disturbance (SED), as defined in the state Medicaid plan. This is phase 2 of a planned implementation meeting federal guidelines for this program. These amendments add the information required to define eligibility, modify the payment matrix to ensure accuracy, and ensure that health home providers collaborate with case managers or social workers for individuals with chronic conditions. These amendments ensure that individuals with SMI or SED will have all care coordinated within their integrated health home provider and that children with SED are served by integrated health home providers trained in a system of care model. The Department received significant public comment, both in support and opposition, regarding the potential impact of these amendments on individuals or service providers.

MEDICINE BOARD

1:30

Standards of practice—physicians who prescribe or administer abortion-inducing drugs, 07/24/13 IAB, ARC 0891C, NOTICE.

This proposed amendment establishes the standards of practice for physicians who prescribe or administer abortion-inducing drugs. The amendment provides that a physician shall not induce an abortion by providing an abortion-inducing drug unless the physician has first performed a physical examination of the woman to determine, and document in the woman's medical record, the gestational age and intrauterine location of the pregnancy. The amendment requires a physician to be physically present with a woman when providing an abortion-inducing drug to the woman. The amendment requires a physician who provides an abortion-inducing drug to a woman

to schedule a follow-up appointment with the woman at the same facility where the abortion-inducing drug was provided. The amendment will have the effect of prohibiting abortion via telemedicine. The Board will hold a public hearing on this rulemaking on August 28.