



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

February, 2005

Scheduled for committee review
FRIDAY, February 4th, 2005
Senate Room #116

Reference
XXVII IAB No. 14(01/05/05)
XXVII IAB No. 15(01/19/05)

HIGHLIGHTS IN THIS ISSUE:

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HUMAN SERVICES DEPARTMENT

9:10

Limits on shelter care services, IAB Vol. XXVII, No. 14,
ARC 3924B, NOTICE.

This proposal sets limits on eligibility and duration for rehabilitative treatment services for children placed in emergency shelter care, foster group care and children placed in psychiatric medical institutions.

Those portions of this proposal relating to shelter care were informally reviewed by the committee in December, 2004. They provide that children placed in emergency shelter care are not eligible for family-centered supervision services; other types of services are limited to 8 units of therapy and counseling and 12 units of skill development, all provided within 30 days for the purpose of family reunification.

Shelter care is designed to provide emergency care for youth until they can be safely returned home or longer term treatment can be arranged. The department's position is that shelter care is a short-term, interim service and long-term services should not be provided in those shelters.

Representatives of the facilities are concerned this change, along with other administrative changes that are not going through the rulemaking process will reduce funding and ultimately reduce the viability of shelter services, especially in rural Iowa.

BANKING DIVISION

9:30

General updates/ investment and deposit activities, IAB Vol. XXVII, No. 14, ARC 3919B, NOTICE.

This rulemaking provides individual banks with greater discretion in their operations by removing a number of current requirements which detail specifically required banking practices. Many specific requirements relating to real estate are being eliminated and will be left to the discretion of the local bank. Requirements relating to the competence of real estate appraisers and specific loan-to-value restrictions are eliminated. Also rescinded are specific requirements relating to acceptable evidence of title for real estate, requirements for insurance and mandated real estate disclosures.

**ECONOMIC DEVELOPMENT DEPARTMENT**

9:45

Confidentiality: battered women shelters, IAB Vol. XXVII, No. 15, ARC 3928B, EMERGENCY.

The Federal Department of Urban Development (HUD) has implemented an information gathering system, the "Homeless Management Information Services" (HMIS). The system is designed to allow HUD to collect data about the country's homeless population.

At issue is personally identifiable information concerning women who are homeless due to domestic violence. Often these women are at risk of further violence or stalking if their whereabouts are disclosed, and local shelters do not want to disclose that data. However, the federal rules do not provide an exclusion for this information, they simply provide that state confidentiality provisions will apply; HUD has now agreed to accept any confidentiality provision the state creates relating to victims of domestic violence. For that reason the department is creating a confidentiality provision and placing it into immediate effect. Legislation has also been proposed to resolve this issue.

**COLLEGE AID COMMISSION**

9:50

Advisory committee on post secondary registration, IAB Vol. XXVII, No. 14, ARC 3921B, NOTICE.

This is a re-notice and re-draft of an earlier October proposal. Chapter 261B, 2005 Code requires that post-secondary schools be registered with the Secretary of State, following approval for operation by the College Student Aid Commission. The statute provides no further details on this approval process.

The commissions' initial proposal was controversial. One issue involved the role of the non-governmental Iowa Coordinating Council for Post High School Education. One commentator contended this council, made up of Iowa-based schools, has too much influence in the approval process. The commentator also stated that consultation with this council should not be mandatory and that applicants should not be

required to follow the procedures of the council. At the November rules review meeting committee members echoed this concern and questioned whether it was appropriate to require any applicant for state approval to be reviewed by a non-governmental body.

This revised proposal appears to resolve the earlier concerns. The applicant is not required to comply with the procedures of the non-governmental Iowa Coordinating Council. The council's role is limited to providing commentary on the applicant to the commission. A second issue is also resolved; the October proposal required an applicant to have library services located in Iowa. A commentator protested this requirement precluded the use of internet library materials. That requirement has been eliminated.

**PUBLIC SAFETY DEPARTMENT**

10:10

Firefighting equipment and training fund, IAB Vol. XXVII, No. 14, ARC 3913B, ADOPTED.

The legislature has consistently appropriated funds for firefighting equipment and training, but there has been no regulatory scheme in place for the administration of those funds. Recent legislation has established a permanent statutory scheme for volunteer training and equipment purchases, along with an appropriation for regional training facilities (\$50,000). These funds may be used to develop a plan for a regional facility, pay a portion of the construction cost, refurbish an existing facility or construct training props. The facility must meet the training requirements of the 1001 standard of the National Fire Protection Association (2002 edition).

The equipment fund is a revolving loan fund for the purchase firefighting equipment. Equipment loans fall into a number of categories:

- Fire fighting apparatus \$25,000\150,000.
- Protective and communications equipment \$10,000\50,000
- Repairs \$10,000\50,000.
- Accessory equipment \$10,000\50,000.

Applicants must provide a 10% match; no applicant serving a population of 30,000 or more

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may receive a loan that would result in over half the funds going to these larger communities.

Training facility funds are available for planning, design, and construction of regional facilities.

### **PUBLIC SAFETY DEPARTMENT**

10:10

Volunteer provider death benefit program, IAB Vol. XXVII, No. 14, ARC 3914B, ADOPTED.

These rules were adopted on an "emergency" basis in June, 2004. Under the earlier program a death benefit was provided if a volunteer fire fighter, reserve peace officer, or volunteer emergency medical provider suffers a "line-of-duty" death. Under those provisions a "line of duty" death was narrowly construed to exclude deaths resulting from stress, strain, or an illness, including a heart attack. Under this revision deaths from heart attacks or strokes which occur while the service provider is on duty or within 24 hours of being on duty will be presumed to qualify for the benefit if the provider was engaged in "non-routine stressful or strenuous physical activity within the scope of the provider's duties." Sedentary, clerical-type duties will not qualify under this definition..

### **PHARMACY EXAMINERS BOARD**

10:30

Centralized prescription filling/distributor pharmacy practice, IAB Vol. XXVII, No. 15, ARC 3932B-3930B, NOTICE.

A "centralized prescription filling center" is any pharmacy that fills or processes prescription drug orders on behalf of other pharmacies. A center must be licensed as a pharmacy. Pharmacies that either have a common owner or a written sharing agreement may establish a center, however, a hospital pharmacy may not service in this capacity. Any prescription that is filled at a prescription filling center must note that fact on the label and patients must be informed prior to the filling of a prescription. A "distributor pharmacy" repackages a patient's prescription medication into unit-dose packaging, for use by a resident of a long-term care facility, who has consented to this services. The medications remain the property of the patient but

the pharmacy assumes the responsibility for the handling of the prescription..

### **PHARMACY EXAMINERS BOARD**

10:30

Clinical internships, IAB Vol. XXVII, No. 15, ARC 3934B, ADOPTED .

As part of the education program pharmacy students are currently required to spend 1000 hours in a college-based clinical internship program; the intern must also complete 500 hours in an actual retail or hospital pharmacy, working under the supervision of a registered pharmacist. This revision raises the clinical internship requirement to 1250 hours, while the pharmacy internship is reduced to 250 hours. The filing also recognizes "non-traditional" internships, which are defined as training at any site which is not licensed as a general or hospital pharmacy. This non-traditional training will not count towards the 1500 hour requirement.

### **REVENUE DEPARTMENT**

10:40

The Streamlined Sales And Use Tax Act, IAB Vol. XXVII, No. 15 ARC 3935B, ADOPTED.

In 2003 the legislature enacted House File 683, which contains The Streamlined Sales And Use Tax Act. That legislation is a model to simplify and update sales and use tax collection and administration on a nationwide-basis. The Act includes tax law simplifications, and revised administrative and collection procedures. Some 38 states were involved in the national project to create this model legislation; Iowa was a participating state.

This national, ongoing project has two components: first, states adopt enabling legislation referred to as the "Uniform Sales and Use Tax Administration Act". The Act allows the state to enter into an agreement with other states to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and all types of commerce. The model itself did not require any amendments to a state's sales and use tax law. Secondly, states amend their sales and use tax laws

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to provide the simplifications and uniformity necessary. There is a national governing board comprised of representatives of each member state which oversees compliance. A certificate of compliance will document compliance with the provisions of the national agreement and provide documentation of that compliance. Iowa has created an advisory group, made up of taxpayers, department officials and other tax professionals to review and hopefully resolve issues that will arise concerning the implementation of this Act.

The Act will ultimately require the re-drafting of all the sales and use tax rules. This filing is basically the first of many installments to update the Iowa rules.

### ATTORNEY GENERAL

10:50

Victim Assistance, IAB Vol. XXVII, No. 15, ARC 3939B, ADOPTED.

The Attorney General has the responsibility of administering a variety of victim assistance programs created by state and federal law. They are administered by the crime victim assistance division; the programs include:

- grants received under the federal Victims of Crime Act and the Children's Justice and Assistance Act;
- the state crime victim compensation program ;
- the domestic abuse program;
- the family violence prevention and services program;
- payment for sexual abuse medical examinations;
- the violence against women program.

Statewide, for all programs, some \$8,000,000 was awarded in 2005---up almost \$2,000,000 since 2000. There are two types of grant programs. A competitive grant utilizes a request for proposal (RFP) with review of the applications by a grant review committee which recommends grant awards to the crime victim assistance board. A focus grant is a one-time grant for such things as training, travel, or materials; focus grants awarded at the discretion of the division directly to a program that has received a competitive grant. A focus grant is limited to 3% from each funding source.

Funds must be used only for victim services or functions related to victim services. Victim

services must be provided without regard to ability to pay. The grant applicant must be either a public or private nonprofit entity, providing services to crime victims or training and technical assistance to victim service providers and allied professionals.

### INSURANCE DIVISION

No Rep

Self-funded health insurance plans for school, IAB Vol. XXVII, No. 14, ARC 3916B, ADOPTED.

2004 Acts, Senate File 386 required the division to study health insurance needs for school personnel. These proposed rules are the result of that study; they provide for self-funded plans and the use of pooling among districts. Before districts can form a risk pool, they must obtain a certificate from the division. The pooling arrangement must be detailed in a "28E" agreement; that agreement must limit the ability of participants to drop out of the program in case of a default and must impose deficit assessments for all plan participants. The pool must also provide information needed to ensure that plan is able to cover all reasonably anticipated expenses and to avoid liability for the government body. Reserves must be established and excess loss coverage must be obtained limiting total claim liability for each year to not more than 125 percent of the level of claims liability.

### INSURANCE DIVISION

No Rep

Medicare supplements: drug benefit, IAB Vol. XXVII, No. 14 ARC 3915B, ADOPTED.

The division adopts several amendments to existing rules which establish the form and substance of Medicare supplemental insurance policies. These changes implement the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003. These proposals are based on a National Association of Insurance Commissioners (NAIC) model regulation.

A new Medicare supplement policy with benefits for outpatient prescription drugs cannot be issued, beginning in 2006. An existing policy can be renewed after the policyholder enrolls in drug benefit set out in Medicare Part D, as long as the renewal premiums are reduced to reflect the part D

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coverage. Under the federal Act beneficiaries who elect the new drug benefit will pay a monthly premium, estimated to be \$35 per month in 2006. Beneficiaries will be responsible for the first \$250 in drug expenses, and then will pay, on average, a 25 percent coinsurance until they reach the benefit limit (\$2,250 in 2006). Once they reach the benefit limit, they will face a gap in coverage in which they will pay 100 percent of their drug costs up to \$5,100 in total drug spending (equal to \$3,600 in out-of-pocket spending). Medicare will then pay 95 percent of drug costs above that amount.