



## IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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# THE RULES DIGEST

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September  
2014

**Scheduled for Committee review**

**Tuesday, September 09, 2014**  
**Senate Committee Room #116**

Reference

XXXVII IAB No. 03(08/06/14)  
XXXVII IAB No. 04 (08/20/14)  
XXXVII IAB No. 05(09/03/14)

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## HUMAN SERVICES DEPARTMENT

9:10

*Appeals*, 08/20/14 IAB, ARC 1588C, NOTICE.

These amendments clarify existing policy relating to the continuance of benefits pending the outcome of an appeal. Although there are a number of narrow exceptions, the policy states that: “[a]ssistance shall not be suspended, reduced, restricted, or canceled, nor shall a license, registration, certification, approval, or accreditation be revoked, or other proposed adverse action be taken pending a final decision on an appeal.”

## HUMAN SERVICES DEPARTMENT

9:10

*CDAC*, 09/03/14 IAB, ARC 1610C, EMERGENCY AFTER NOTICE.

Administrative rules that went into effect January 1, 2014, prohibit legal representatives from being a paid provider of Medicaid funded services. 2014 Iowa Acts, Senate File 2320, section 1, directed the Department to adopt rules allowing legal representatives to be paid providers when providing services to members receiving individual consumer directed attendant care (CDAC) services or as an employee in the Consumer Choices Option (CCO) program. These amendments will allow a legal representative to be a paid provider of service when providing individual CDAC or CCO services to a member they legally represent. These amendments also set service delivery parameters for the legal representative when they are a paid provider, as required by Senate File 2320.

## **ADMINISTRATIVE SERVICES DEPARTMENT**

9:45

*State employment and human resources updates, 08/06/14 IAB, ARC 1503C, ADOPTED.*

The Department adopts a variety of amendments to existing personnel policies. The amendments update statutory citations, make editorial corrections, and simplify and clean up existing provisions. In part the amendments simplify provisions relating to the confidentiality of personally identifiable information by simply stating that employee employment, performance and discipline records are confidential in accordance with Iowa Code §22.7(11) and any other applicable law.

The amendments also create an opportunity for noncompetitive appointments for disabled veterans. A disabled veteran who satisfactorily completes a federally funded job training program approved by the federal Department of Veterans Affairs in a state agency may be appointed noncompetitively into a vacant position in the state. job classification in which the veteran has been trained.

These amendments were initially reviewed by the Committee in July. At that meeting Committee discussion focused primarily on Item 22, which strikes the following language (60.3(2)“c”): “An agency shall not implement a reduction in force until it has first terminated all temporary employees in the same class in the reduction in force unit, as well as those who have probationary status in the same class.” Members noted that based on past practice, temporary employees were laid off before permanent employees. Department representatives responded that the merit provisions or contract rights of employees would continue to apply, including layoff protocol and the application of bumping and recall rights.

## **COLLEGE AID COMMISSION**

10:00

*Teach Iowa scholar program, 08/20/14 IAB, [ARC1572C](#), ADOPTED.*

This grant program is available to persons who have 1) graduated in the top 25 percent academically of students completing teacher preparation programs, and 2) are teachers providing instruction on a full-time basis in “hard to staff” subject matters, as specified by the Department. The maximum annual award is \$4,000, with a cap of \$20,000 over a five-year period.

## **NATURAL RESOURCES DEPARTMENT**

11:05

*Deer season, 08/06/14 IAB, ARC 1562C, ADOPTED.*

This annual update of the deer hunting season eliminates the January antlerless-deer-only season, reduces antlerless deer quota numbers in 72 counties by 10,000 from the

licenses sold in 2013, and restricts hunters in 27 counties to taking only antlered deer during the early muzzleloader and first shotgun seasons. These rules are designed to reduce the rate of decline in deer numbers in those counties.

The filing also implements 2014 Iowa Acts, House File 499, which requires the Department to make crossbows a legal weapon during the late muzzleloader season.

## **NATURAL RESOURCES DEPARTMENT**

11:05

Fishing regulation, 08/06/14 IAB, ARC 1565C, NOTICE.

The Department periodically revises its' regulations relating to fishing. The rules set out a chart which establishes the season , bag, possession, and length limits for the various species; these provisions can vary for boundary waters which are shared with neighboring states. Proposed changes are specific to certain locations, with differing season or length limits.

A number of public hearings have been scheduled around the state.

## **INSPECTIONS AND APPEALS DEPARTMENT**

11:25

Subacute mental health services, 09/03/14 IAB, ARC 1615C, NOTICE.

This rulemaking establishes standards for licensing of subacute care facilities. A subacute mental health facility is licensed and regulated by Iowa Code chapter 135G; it is a controlled access facility providing mental health services for a period exceeding twenty-four consecutive hours. A subacute facility can be a separately licensed portion of another facility.

Subacute mental health services are a comprehensive set of services for persons at imminent risk of having acute or crisis mental health symptoms that do not permit the person to remain in their home; treatment is based on a plan specifically developed for each person.. In addition to direct care staff, the facility must have on a 24 hours a day basis an on-call psychiatrist or advanced registered nurse practitioner and a registered nurse with at least two years of experience in psychiatric care, or a BSN registered nurse with at least one year of experience in psychiatric care.

To be admitted a person must be over the age of 18, and have a diagnosable mental, behavioral or emotional disorder. The person must also present two of the following:

- a moderate to high risk of danger to self or others;
- a lack of adequate skills or social support to address mental health symptoms;
- require observation and care for stabilization.

## **PUBLIC EMPLOYMENT RELATIONS BOARD**

1:20

Mediators and arbitrators, 08/06/14 IAB, ARC 1570C, NOTICE.

The Department periodically revises its' regulations relating to the qualifications for arbitrators and mediators. This proposal takes a current "bare bones" provision relating to the fees of neutrals and expands it into a full program for the selection and regulation of arbitrators and mediators, similar to licensing provisions. PERB maintains a list of mediators whomeet the standards set by the Board. A mediator must have ONE of the following:

- At least three years of collective bargaining experience in the public or private sector;
- At least three years of actual mediation experience;
- At least five years of other relevant experience in labor-related fields;
- A law degree or a master's or equivalent degree in industrial or labor relations or alternative dispute resolution;
- Experience that is a combination of the above.

An arbitrator serves as a neutral decision-maker in arbitrations, grievance arbitrations, or teacher terminations. PERB maintains a roster of arbitrators who comply with the standards set by the Board. Listing on the roster must be renewed every three years. The rules set out specific experience standards for each type of arbitrator, interest arbitrator, grievance arbitrator, or teacher termination adjudicator.

General standards for all mediators and arbitrators include the following:

- Good verbal and written communication skills;
- The ability and willingness to travel and to work prolonged and unusual hours;
- Knowledge of Iowa Code chapter 20, the agency's rules, and principles and practices of contracts, public finance, and labor relations;
- The ability to conduct fair, impartial, and timely evidentiary hearings.

The board conducts a mentorship program to increase the number of arbitrators in Iowa.

## **IOWA FINANCE AUTHORITY**

11:45

2015 Qualified Allocation Plan, 08/20/14 IAB, ARC 1585C, NOTICE.

Each year the Authority updates the "Qualified Allocation Plan" for the Low-Income Housing Tax Credit Program. This program, in place for many years, provides a dollar-for-dollar credit to offset an owner's federal tax liability on ordinary income for a 10-year period. Tax credit interest may be syndicated or sold to generate equity for the developments, thus reducing the necessary mortgage financing. The credit is determined by taking a percentage of the "qualified" cost of development. The

maximum percentage for new construction and rehabilitation is 9%. The maximum percentage for acquisition and federally subsidized projects is approximately 4%.

To be eligible a project must be a residential rental property; this would include apartments, single-family houses, duplexes, town homes or condominiums. The project may include new construction, major rehabilitation, or acquisition and rehabilitation. Twenty per cent or more of the units must be rent restricted and occupied by individuals or families whose income is 50% or less than the area median gross income; or forty per cent of the units must be rent restricted and occupied by individuals or families whose income is sixty per cent or less than the area median gross income.

## **PUBLIC HEALTH DEPARTMENT**

1:00

Medical Cannabidiol, 08/06/14 IAB, ARC 1571C, NOTICE.

Senate File 2360 establishes new Code chapter 124D, the “Medical Cannabidiol Act”, to allow for the medical use of a certain type of marijuana derivative for alleviating symptoms caused by intractable epilepsy. A neurologist who has physically examined and treated a patient suffering from intractable epilepsy may provide a written recommendation for the patient’s medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy if there are no other satisfactory treatment options.

“Cannabidiol” is a nonpsychoactive preparation that has a tetrahydrocannabinol level of no more than 3 percent. “Intractable epilepsy” is an epileptic seizure disorder for which standard medical treatment does not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results in harmful side effects.

The Department of Public Health, authorizes a picture ID registration card issued by the Department of Transportation; this registration file is confidential and must be annually renewed.

The substance of the program is detailed in the Act itself; the rules set out the procedural steps to authorize registration.

Hearings on these rules are scheduled through the ICN for six locations around the state.

## **REVENUE DEPARTMENT**

2:10

Multiresidential property tax classification, 08/20/14 IAB, ARC 1593C, NOTICE.

This rulemaking implements implement new Iowa Code subsection 441.21(13) which was enacted by 2013 Iowa Acts, Senate File 295, the property tax reform bill, and which

takes effect January 1, 2015. The SF 295 created a new classification of property for property taxation purposes called “multiresidential.” The rulemaking sets out the multiresidential property tax classification and provides for the determination of aggregate actual values of multiresidential real estate, is the valuation and assessment of property classified as multiresidential, and the valuation and assessment of property with a dual classification.

## **TRANSPORTATION DEPARTMENT**

2:30

Driver education- teaching parent, 09/03/14 IAB, ARC 1612C, ADOPTED.

Code §321.178A was enacted in 2013; it allows a “teaching parent” to instruct a student in a driver education course approved by the Department; the course must cover all of the following:

- Thirty clock hours of classroom instruction;
- Forty hours of street or highway driving including four hours of driving after sunset and before sunrise while accompanied by the teaching parent;
- Four hours of classroom instruction concerning substance abuse;
- A minimum of twenty minutes of instruction concerning railroad crossing safety.
- Instruction relating to becoming an organ donor;
- Instruction providing an awareness about sharing the road with bicycles and motorcycles.

## **UTILITIES DIVISION**

2:45.

Universal service, 08/06/14 IAB, ARC 1536C, NOTICE.

The division re-writes existing rules relating to the universal service fund. The fund was created by the FCC to further the goal of universal service and access to advanced telecommunications services for all schools, classrooms, health care providers, and libraries. As part of this program the Connect America fund assists the expansion of broadband and mobile broadband services in rural settings. The High Cost Program is part of Connect America and is designed to ensure that rural consumers pay telecommunications service that are comparable to those available in urban areas. The lifeline program provides discounts on monthly telephone service of \$9.25 per month for eligible low-income persons. The discount may be applied to either a wireline or a wireless service.

Participating communications carriers who are approved by the Division may receive federal funding under this program.

## **ENGINEERING EXAMINERS**

No Rep.

*Conflict of interest, 08/20/14 IAB, ARC 1557 C, ADOPTED.*

This issue first dates back to September 2012. At issue are conflict-of-interest restrictions on soliciting or accepting an engineering or land surveying contract from a governmental body when a principal or officer of the licensee's organization serves as a member of that governmental body.

The board ultimately formed a stakeholder group to resolve the issue, which is set out in this adopted rule, the notice of intended action was reviewed at the May meeting and no comment was received. The change eliminates most of the current detail of the previous rule, and adds a simple principle: "A licensee would not violate this provision, however, if the principal or officer of the licensee's organization who serves as a member of the governmental body plays no role in the solicitation or acceptance of the contract, and the contract would be legally permissible under applicable Iowa law..."