



Administrative Rules Review Committee

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# THE RULES DIGEST

April 2007

Scheduled for committee review  
**FRIDAY, April 13<sup>th</sup> 2007** Committee Room #116

Reference  
XXVIX IAB No. 19(03/14/07)  
XXVIX IAB No. 20(03/28/07)

## HIGHLIGHTS IN THIS ISSUE:

*ANNUAL MEDICAID CARDS, Human Services Department* .....2

### PHARMACY BOARD OF EXAMINERS

8:10

Refusal to fill prescription or dispense drug, IAB Vol. XXIX, No. 18, ARC 5739B, NOTICE-Held over from March.

This proposal has now been withdrawn by the pharmacy board. The controversial portion of this proposal outlined the circumstances where a pharmacist may refuse to fill a prescription; this included situations where the pharmacist had concerns over the appropriateness of the prescription or the actual identity of the person requesting the prescription. The rules also contain a proposal for "conscientious objection and refusal".

Under this concept a pharmacist may refuse to fill any prescription based on the pharmacist's ethical or moral beliefs. The proposal did more than simply codify that right, it would have required the pharmacist to notify the pharmacist's employer prior to invoking a conscientious objection to the dispensing of any drug or class of drugs. In addition, pharmacy personnel would have been required to assist a patient to identify another pharmacy or other lawful source that may be able to provide the drug.

This conscientious objection provision has been adopted in a number of jurisdictions. At least in part the controversy involves the use of an emergency contraceptive, the so-called "Plan B", which some contend is an abortifacient. A number

of pharmacists have strong objections to providing this medication. There is some concern that a refusal to dispense can adversely affect the patient; for example, the "Plan B" drug has a relatively narrow window of effectiveness, making any delay problematic.

The withdrawal of the proposal does not automatically require that a pharmacist fill a prescription---it simply means that the board has no formal policy on that point. A pharmacist may still refuse to fill a prescription, but the issue would then be resolved by filing an ethical complaint with the board which would then be decided on a case-by-case basis through the contested case process.

The proposal also contained an unrelated provision, requiring each pharmacy to implement a continuous quality improvement (CQI) program. CQI is basically an ongoing review of standards and procedures, hopefully to continuously approve the quality of service and care. As a part of this review certain "reportable program events", basically prescription errors of various types, must be reported to the responsible pharmacist, who must take all reasonably necessary steps to remedy any problems, then document those steps. Those CQI records must be maintained in the pharmacy and be available for inspection and copying by the board for at least two years from the date of the record.

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### HUMAN SERVICES DEPARTMENT

8:45

Annual Medicaid cards, IAB Vol. XXIX, No. 17, ARC 5716B, NOTICE-Held over from March.

The department proposes to issue Medicaid cards annually rather than monthly; the department does not determine eligibility on a monthly basis any longer and for that reason believes an annual card is appropriate. The department anticipates savings in postage, printing, and computer system time; according to Legislative Services Agency estimates, savings will amount to some \$429,000 each year in printing and mailing cost and \$60,000 in computer processing costs, for a total annual savings of \$489,000.

### HUMAN SERVICES DEPARTMENT

8:45

Emergency assistance, IAB Vol. XXIX, No. 20, ARC 5784B, EMERGENCY.

Senate File 305 creates a new Iowa individual disaster grant program to needy individuals who have disaster related expenses or serious needs that cannot be met by other financial assistance; the legislature has appropriated \$1,000,000 to implement the program for the current emergency.

This new assistance program is activated when the governor issues a declaration of a disaster emergency and is in effect only in the counties named in the declaration. Assistance can be provided for a period not to exceed 120 days from the date of declaration. Applicants must have an annual household income of income is less than 130 percent of the federal poverty level, with assistance limited to 25 percent of the annual income limit for a household of one person. The rules itemize reimbursement for personal items, as follows:

- Kitchen items---\$560,
- Personal hygiene item---\$30 per person and \$150 per household.
- Clothing and bedroom furnishings---\$875,

#### Miscellaneous

- Infant car seat---\$40,
- Dehumidifier---\$150,
- Sump pump---\$200,
- Electrical or mechanical repairs---\$300,
- Water heater---\$425,
- Vehicle repair---\$500,

- Heating and air conditioning system---\$2,100.

Reimbursement may be issued for home repair as needed to make the home safe, sanitary, and secure, up to a maximum of \$1000. Temporary lodging at a hotel or motel is available up to a limit of \$50 per day. Expenses are certified by the county emergency management coordinator.

### AGRICULTURE DEPARTMENT

9:40

Animal foster care, IAB Vol. XXIX No. 19, ARC 5777B, ADOPTED.

Under this filing a licensed animal shelter or a licensed pound (essentially a government-owned shelter) may also be licensed to be a "fostering oversight organization" allowing the shelter or pound to utilize foster care homes as part of its program for caring for abandoned animals. An organization may authorize up to ten foster care homes per species; that number may be reduced by the department. A foster care home is a private residence providing temporary shelter, often for a particular type of animal.

The oversight organization must screen a prospective foster care home to ensure that the person who will be operating foster care home is capable of caring for the animals. The oversight organization must periodically inspect the foster home. At its discretion department representatives may also inspect the foster home.

### RACING & GAMING COMMISSION

11:10

Temporary suspension of an occupational license, 491 IAC 6.5(1)"h"; SELECTIVE REVIEW.

The committee will review the procedures used to revoke or suspend occupational licenses at Iowa's casinos and race tracks. The Racing and Gaming Commission has broad authority over the licensing of race tracks and casinos and the various occupations associated with those facilities. Code §99D.2(4) empowers the commission to require licenses for those occupations which the commission believe require the safeguard of licensure. Virtually every job at a track or casino, from farrier to croupier, requires a license.

§99D.7(8) empowers the commission to investigate alleged violations of statute or the commission rules, orders, or final decisions and to

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take appropriate disciplinary action against a licensee or a holder of an occupational license for the violation, or institute appropriate legal action for enforcement, or both. §99D.7(10) empowers the commission to require the removal of a racing official, an employee of a licensee, or a holder of an occupational license, or employee of a holder of an occupational license for a violation of chapter 99D, a commission rule or engaging in a fraudulent practice.

which is *then* followed by separate and distinct appeal procedures for the insurer and the insured.

### INSURANCE DIVISION

11:30

Hearing on rates and forms, IAB Vol. XXIX, No. 20, ARC 5808B, ADOPTED.

This filed rule relates to the procedures used for filing insurance policy rates and forms, relating to property and casualty insurance, which require approval by the division. At issue in this filing is new rule 20.2, which allows any insured to demand a hearing on a form or rate filing. While the rule is not specific on the exact nature of the hearing, the hearing is a Chapter 17A evidentiary hearing, meaning that the decision-maker renders a binding decision after a judicial-type proceeding.

Representatives of the insurance industry oppose this provision, contending this hearing provision is beyond the authority of the division, citing Code §515F.6, which states in part:

If a filing is disapproved by the commissioner, the insurer or advisory organization, may request a hearing on the disapproval within thirty days. The insurer bears the burden of proving compliance with the standards established by this chapter.

It should be noted that Chapter 515F establishes a *specific* hearing procedure for an insured; §515F.7 relates to the "hearings and appeals of insureds" and provides in part:

The insured affected by the action of the insurer on a request may, within thirty days after written notice of the action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to the insurer, may affirm or reverse the action.

It appears that Chapter 515F does not contemplate approving rates and forms through an evidentiary hearing process, as is used in setting utility and telephone rates. Instead, the statute has established a separate process for rate and form evaluation and approval by the commissioner,