



Administrative Rules Review Committee

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THE RULES DIGEST

March, 2007

Scheduled for committee review
FRIDAY, March 2nd 2007 Committee Room #116

Reference
XXVIX IAB No. 17(02/14/07)
XXVIX IAB No. 18(02/28/07)

HIGHLIGHTS IN THIS ISSUE:

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PROFESSIONAL LICENSURE
DIVISION

8:10.

Physicians assistants, IAB Vol. XXIX, No. 17-18, ARC
5706B and 5725B, ADOPTED.

The board of physician assistant examiners
proposed several revisions to its licensure rules in
November; several of the revisions were
controversial and for that reason the filing was split
into two final adoptions. ARC 5706B, published on
February 14, contains non-controversial items
relating to educational course documentation.

ARC 5725B, publish on February 28 contains
three significant items. The first provides that a
physician assistant may be taught new procedures
under either direct or remote supervision. The
assistant may perform the procedures only if the
supervising physician determines the physician
assistant is competent to perform the procedure.

A second change relates to the supervisory role
of the physician. Since a physician assistant may
have more than one physician who has a
supervisory responsibility, the rule provides that
both physician and physician assistant have the
responsibility to be aware of who is currently
designated as the supervising physician. The

current policy requires the physician assistant to
notify the physician who currently has the
supervisory responsibility.

The third change relates to reports filed with the
board; under the prior rules a physician assistant
must report any addition or replacement of a
supervising physician to the board within 90 days
of that change. With this change the report must be
made at the time of license renewal, but the
assistant must maintain a list of supervising
physicians, available to the board on request.

COLLEGE STUDENT AID
COMMISSION

8:50

Teacher shortage forgivable loan program, IAB Vol. XXVIV
No. 17, ARC 5717B, NOTICE.

This proposal is a re-write of current rules; the
program began in 1998 and was last revised in
2003. The forgivable loan program is available to
Iowa residents who are undergraduate, or graduate
students in an approved teacher preparation
program in a designated area in which teacher
shortages are anticipated, at a state or private
college or university.

The only significant change is a change in the
calculation of the forgivable loan when the

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individual has part-time employment. Under the proposal there will be 20 percent forgiveness for 76 percent to 100 percent of full-time employment; 15 percent forgiveness for 51 percent to 75 percent of full-time employment; and 10 percent forgiveness for 26 percent to 50 percent of full-time employment.

### CORRECTIONS DEPARTMENT

9:00

Visiting, IAB Vol. XXVIV No. 17, ARC 5708B, NOTICE.

The department has for decades maintained detailed rules relating to inmate visits by relatives and friends; the department has broad authority to control visits in order to maintain the security and order of the various institutions. This revision creates a "central visiting authority", a department office that is responsible for the visitor application approval process throughout the system; under the current system each institution conducts its own approval process. Each institution will structure a visiting schedule allowing visitation for a minimum of four days per week, with the visiting room open a minimum of four hours on each authorized visiting day.

The proposal contains a great amount of detail relating to sex offenders, with significant additions relating to visits by minors to a sex offender. The offender cannot have any minor visitors until the offender completes the sex offender treatment program; following completion of the program institutions *may* authorize visits by a minor. It should be noted that completion of the program requires an admission of guilt; thus an offender who consistently denies guilt cannot have minor visitor.

There are special rules relating to visits by the *victims* of abuse; such visits are permitted, after consultation with department staff and once the inmate has completed all required treatment programs.

Visiting requirements are also revised for attorneys and clergy. Under the existing rules both professionals must present proof of identity; under these revisions they must also complete an initial visitor application form; however, this initial application applies to multiple visiting lists. Background checks are also required for clergy, but

not for attorneys; attorneys have been subjected to background checks as part of the initial licensing process.

### LABOR DIVISION

9:15

Water heaters, IAB Vol. XXIX, No. 13, ARC 5619B, NOTICE.

Iowa Code §89.3 imposes a duty on the commissioner of labor to annually inspect all low pressure heating boilers in places of public assembly used for "generating or transmitting steam" for power, or for using steam under pressure for heating or steaming purposes.

Under this proposal all water heaters used in places of public assembly, such as theaters, schools, casinos or churches would be regulated and inspected by the division; current regulation applies only to heaters larger than 50 gallons. In addition to the standards set out in the proposed rule, this means that the owners of the water heaters must pay a \$25 fee shall be paid for each one-year certificate or a \$50 fee shall be paid for each two-year certificate, with an annual inspection fee of \$40.

This proposal was initially reviewed at the committees January meeting, where some members expressed concern over the broad scope of this proposal and its cost to the regulated public. Members noted there had been no specific consultations with any member of the regulated public. A department representative responded that these water heaters are not subject to any national standard and that instances of catastrophic failure have occurred.

Pursuant to Code §17A.4A the committee voted to demand a regulatory analysis of this proposal, in order to determine its' scope and impact. This highly-detailed analysis precludes the adoption of the rule until all steps have been completed. At this meeting discussion will include possible alternatives to the formal analysis process and the merits of the rule itself.

### BOARD OF REGENTS

9:30

Admission of undergraduate students directly from high school, IAB Vol. XXVIV No. 18, ARC 5748B, NOTICE.

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Under a long-standing board policy graduates of approved Iowa high schools who have the recommended subject matter background and rank in the upper one-half of their graduating class were given automatic admission into a Regent's institution. Applicants who were not in the upper one-half of their graduating class could gain admission at the discretion of the admissions officers, after a review of their academic and test records.

Beginning with the Fall, 2009 academic term admission decisions will be based on four factors – performance on standardized tests; high school grade point average; high school percentile rank in class; and number of high school courses completed in the core subject areas. These factors are used in a weighted formula to calculate a "Regent Admission Index" (RAI). Applicants with a total score of 245 gain automatic admission.

Current rules remain for the case-by-case evaluation of those who do not meet the required score. Based on individual consideration these applicants can be admitted unconditionally, admitted conditionally, be required to enroll for a tryout period during a preceding summer session, or be denied admission.

### TRANSPORTATION DEPARTMENT

10:00

Bidding requirements, IAB Vol. XXIV No. 18, ARC 5724B, NOTICE.

Iowa Code §26.14 was enacted in 2006 and requires "competitive quotations" for certain local public improvements. The thresholds relatively low and specified in the statute:

- \$67,000 for a county, including a county hospital.
- \$51,000 for a city having a population of 50,000 or more, including a city hospital.
- \$51,000 for a school district having a population of 50,000 or more.
- \$51,000 for an aviation authority created within a city having a population of 50,000 or more.
- \$36,000 for a city having a population of less than 50,000, for a school district having a population of less than 50,000, or a city hospital, and
- \$36,000 for any other governmental entity.

This simplified bidding process provides that a local government entity is required to make a good faith effort to obtain quotations for the work from at least two contractors regularly engaged in such

work prior to letting a contract. The requirements do not apply to the board of regents and the department of transportation.

Each solicitation must include a description of the work to be performed, and plans and specifications for the work. Bidding contractors must provide a quotation in writing by the specified date and in the specified format; the quotation must include the total price for labor, equipment, materials and supplies required to perform the work.

The governmental entity shall award the contract to the contractor submitting the "lowest responsive, responsible quotation", unless the government entity itself submitted a lower quotation; or the governmental entity may reject all of the quotations.

### VETERANS AFFAIRS DEPARTMENT

10:15

War orphans educational assistance fund, IAB Vol. XXIV No. 18, ARC 5718B, EMERGENCY.

The fund has been in place since 1992 and initially provided \$600 per year for educational assistance for any one child who has lived in Iowa for two years. Assistance is limited to the child of a parent killed while on active federal military service and is capped at \$3,000.

An updated program has been added as a result on the 9/11 attack and the ongoing conflicts since that attack. This new program applies to children of persons who died on or after September 11, 2001; the amount of payment is increased to \$5,500 per year or the amount of the child's established financial need, whichever is less, with a lifetime limit of \$27,500.

### VETERANS AFFAIRS DEPARTMENT

10:15

County grant program, IAB Vol. XXIV No. 18, ARC 5720B, EMERGENCY.

House File 2797, appropriated up to \$1,000,000 to the Department to provide matching grants to counties to provide improved services to veterans. The department will award grants in amounts up to a maximum of \$10,000 to each county submitting an application approved by the department. In

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order to qualify for a grant, a county must provide a 100 percent match. Applications will be evaluated based on:

- The needs of the local veteran population.
- The clarity of the goals of the project. The timeline for the delivery of the proposed services.
- The project addresses the implementation of new practices and methods for addressing the needs of the veteran community and improvement of delivery of services.
- The application demonstrates financial accountability and mechanisms to ensure proper evaluation of the project.

### NATURAL RESOURCES DEPARTMENT (DNR)

11:00

Dock fees, IAB Vol. XXIX, No. 18. ARC 5751B,  
ADOPTED.

The department regulates the placement and construction of docks adjacent to Iowa's *public* waterways and this filing sets out a complete rewrite of the dock chapter. There are a number of different types of docks. A commercial dock is a dock is used as part of a business and includes a dock extending from residential property if one or more mooring spaces at the dock are rented for profit. A public dock provides public access from public land. A private dock is located on the private property of a riparian landowner and is not used for commercial or public purposes.

Some requirements are applied to all docks. Docks must be located "to limit their adverse impacts on the aquatic ecosystem." To the extent practicable docks must be placed near the center of the shoreline frontage, perpendicular to the shoreline in order to maximize offsets from neighboring properties. Docks may extend into the water only the distance necessary for reasonable access to the water and must be removed from public water not later than December 15, unless the removal is waived by the department.

There are special provisions and a separate fee structure for a dock management area (DMA). A DMA is designated by the director and consists of a water body which adjoins a state park, wildlife management area, recreation area or land dedicated to the public use---i.e.: public land. Boathouses are not allowed in dock management areas. There are approximately 250 existing docks in dock

management areas and all of them are public docks because they extend from public land rather than private land. Some of these docks extend into lakes from shorelines of State parks. Others extend from areas dedicated for public use. Dock sites, where feasible, must be at least 50 feet apart. While these docks are designated as public docks, the dock permittees have priority use of the docks for mooring of vessels. These docks may be used by the public for fishing and emergency mooring when the public use does not interfere with the permittee's use.

There are several categories for dock permits. Previously, general permits were available without any application, exempting the owners of most private docks from obtaining individual permits and paying administrative fees; this was challenged as unlawful, because it required no action on the part of the dock owner. This is now replaced with the class I permit which requires an application and is valid for five years without fee. Docks may extend no more than 100 feet, *or* far enough so that the outer 50 feet of the dock is in 3 feet of water up to a maximum of 300 feet. "L" or "T" docks can extend no more than 20 feet or contain more than 200 square feet. An individual private dock permit is available for a fee.

A commercial permit is also available; a commercial dock may extend a maximum of 300 feet from the water's edge. However, the applicant must provide justification for a length greater than 150 feet. Commercial boathouses are allowed; however, they may be restricted as needed to minimize adverse visual impact on owners of other property and the public.

There are exemptions for length limitations for docks that were in place prior to the implementation of these rules. A dock permit creates no property interest in the land beneath the dock to the high water mark.

With the exception of class I permits, fees are imposed and the are increased from earlier levels. There is no fee for a general permit. The fee is \$125 for a individual private dock and \$250 for commercial docks. A private dock permittee must pay an annual fee of \$50 for each hoist or slip in excess of a total of four hoists or slips. A

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commercial dock permittee must pay an annual fee of \$50 for each hoist or slip in excess of a total of six hoists. There is a special fee structure for docks located in a DMA, with each fee specific to the location. Fees run from \$100 to \$600 for a dock and from \$25 to \$50 to \$100 for a hoist or slip.

- preparing compounded medications with verification by the pharmacist.

### HISTORICAL DIVISION

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Historical resource development program, IAB Vol. XXIV No. 18, ARC 5759B, NOTICE.

This revision of existing rules eliminates a large amount of detail and seems to be a more generic version of the existing program, with most detail left to the statute itself. The current rules fund historic preservation projects involving historic buildings and properties, the preservation and acquisition of museum artifacts and document collections.

The program combines the historical resource development program as established by §303.16 and the resource enhancement and protection Act as established in §455A.16. The resource development program is available to government a private non-profit entities and basically funds maintenance and preservation efforts. Resource enhancement relates to natural heritage projects.

### PHARMACY BOARD

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Delegation of duties to a pharmacy technician, IAB Vol. XXIX, No. 18, ARC 5733B, ADOPTED.

Prior board rules stated that a pharmacy was closed when the pharmacist is absent; but the rules do allow some access, in emergency situations, to obtain drugs, devices or chemicals. This revision restates and emphasizes that policy, and specifies the activities that may and may not be performed by an assistant when the pharmacist is absent from the facility. A technician may *assist* another authorized, licensed health care professional to locate a drug or devise in an emergency but cannot actually dispense the drug or deliver the devise or verify that it is correct.

An assistant is specifically prohibited from:

- dispensing medications or devises;
- verifying the accuracy of a prescription or an order;
- evaluating a medication record;
- providing counseling or drug information;