



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

STATEHOUSE \* ROOM 116 \* DES MOINES, IOWA 50319 \* (515) 281-3084/3355/4800
FAX (515) 281-5995/4424 \* E-MAIL jroyce@legis.state.ia.us; egardyas@legis.state.ia.us

THE RULES DIGEST

July 2007

Scheduled for committee review
July 10th and 11th 2007 Committee Room #102

Reference
XXIX IAB No. 25 (06//06/07)
XXIX IAB No. 26 (06/20/07)
XXX IAB No. 01 (07/04/07)

HIGHLIGHTS IN THIS ISSUE:

DEBT CANCELLATION PRODUCTS, Credit Union Division ..... 1
FILM, TELEVISION, AND VIDEO PROJECT PROMOTION, Economic Development ..... 2
SPECIAL EDUCATION, Education Department ..... 4
PRESCHOOL PROGRAM, Education Department ..... 5
LANDFILLS, Environmental Protection ..... 6
RESERVE PEACE OFFICER TRAINING, Law Enforcement Academy ..... 7
PAPER BALLOT REQUIREMENTS, Secretary of State ..... 7
FINANCIAL ASSISTANCE PROGRAMS, College Student Aid ..... 8

CREDIT UNION DIVISION

Tuesday 10:10

Debt cancellation products, IAB Vol. XXIX No. 25, ARC 5930B, NOTICE.

A debt cancellation product is an agreement between a financial institution and a borrower modifying loan terms under which the institution agrees to suspend or cancel all or part of the borrower's obligation to repay a loan. A debt cancellation product may involve an optional member paid fee, and generally provides protection for such unforeseen events as death, disability, involuntary unemployment, total loss of a vehicle, and other contingencies. To the consumer debt cancellation may appear similar to credit life or disability insurance, but debt cancellation is not an insurance product and it is regulated by the credit union division as part of the loan process.

The purchase of a debt cancellation product must be voluntary, it cannot be a condition of the loan. The credit union must obtain from the borrower a written election to purchase the product

and written acknowledgment of the disclosures required in by the rules. This includes:

- Disclosure that the product is optional;
• An explanation of debt suspension agreement;
• The amount of fee;
• Lump sum or installment payment of fee;
• Policy of refund of the fee;
• Cancellation rights;
• Eligibility requirements.

ECONOMIC DEVELOPMENT DEPARTMENT

Tuesday 10:20

Job counting and tracking, IAB Vol. XXX No. 01, ARC 6030B, EMERGENCY.

In response to an Auditor's report concerning the Grow Iowa Values Fund, the Department is reorganizing the rules for ten job creation programs. The changes are largely editorial and are designed to present program requirements in a more cogent manner; topics such as the application review and approval process, wage and threshold requirements, contracting, amendments and

## THE RULES DIGEST

-2-

reporting are now centralized. Many requirements are now set out in easy-to-read charts.

Substantive additions include new provisions for job counting and tracking. An applicant's employment base, at the facility receiving funding, is calculated as part of the application process and will be determined before an award is made. The number of jobs the applicant has pledged to create and retain is in addition to the employment base. Payroll documents must be collected to calculate and verify the employment base used in each award. The payroll document must include an ID (name, employer ID number, or social security number) and the hourly rate of pay for all full time equivalent positions (FTE).

Base information includes:

- The total number of FTE positions at the funded facility.
- The average wage of all FTEs.
- The qualifying wage used in the award.
- The benefit value used in the award.
- The total number and wage of FTEs at the funded facility that are currently at or above the qualifying wage.
- The total number and wage of FTEs at the funded facility that are currently at or above the qualifying wage after the benefit value has been added.

Base employment information will be analyzed and updated at various stages in the life on the contract, including:

- At the time of application, before the award is made.
- Annually during the reporting cycle.
- At the project completion date.
- At the end of the maintenance date.

### **ECONOMIC DEVELOPMENT DEPARTMENT**

Tuesday 10:20

Film, television, and video project promotion program, IAB Vol. XXX No. 01, ARC 6030B, EMERGENCY.

This emergency filing implements a new tax credit program created by 2007 Iowa Acts, House File 892--the Film, Television, and Video Project Promotion Program. The program will assist the production of film, television, and video projects within the state. To be eligible a project must:

- produce an entire film, television, or video episode or a film, television, or video segment in the state;

- expenditure at least \$100,000 in the state and have an economic impact that justifies assistance under the program;
- further tourism, economic development, and population retention or growth in the state or locality;
- be intended to be widely distributed beyond the Midwest;
- will not depict or describe any obscene material.

Two tax credits are available under the program. The qualified expenditure tax credit will provide a credit for certain expenditures made on a project. Qualified expenditures are payments to an Iowa resident or an Iowa based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the project.

A qualified investment tax credit is available for a portion of a taxpayer's investment in a project.

Both tax credits equal 25 percent of the expenditures or investments in a project on or after January 1, 2007. When issued, the tax credit certificate is transferable. Tax credit certificate amounts of less than \$1000 are not transferable. A maximum of two transfers are allowed. Any tax credit in excess of the tax liability for the tax year may be credited to the liability for the following five years or until depleted, whichever is earlier.

### **ECONOMIC DEVELOPMENT DEPARTMENT**

Tuesday 10:20

Waivers, IAB Vol. XXIX, No. 26, ARC 5947B, ADOPTED.

This filing was previously reviewed by the Committee at its March and May 2007 meetings. Code §15G.204 specifically provides for a waiver, allowing grant recipients to petition the board for relief from grant repayment requirements; but the statute failed to establish any procedures or criteria for the granting of a waiver. The board now has rules in place detailing the waiver process. Grant recipients must use the infrastructure *exclusively* to store and dispense the type of renewable fuel approved by the Board for no less than five years. If the recipient ceases use of the approved fuel during this five-year period, the grantee must either pay back the grant award plus an additional 25 percent penalty or seek a waiver of the repayment requirements. During the first 60 days of the contract the recipient may repay any money received and terminate the contract without

## THE RULES DIGEST

-3-

penalty. Once that period has passed a waiver of repayment and penalty is only available if the recipient has completed the terms of the contract of can show "good cause"; the term includes bankruptcy, permanent closure of the storage tanks or "financial hardship". This last criteria requires documentation showing a "good faith" effort to market the fuel, this documentation must include the most recent six-month history of gallons of approved renewable fuel. If the documentation is adequate all penalties will be waived and the repayment of the principal will be reduced on a sliding basis: during the first 10 months of the contract, 100 percent of grant amount will be returned; for the remaining period of the five year contract, two percent of grant amount for each month remaining on contract must be returned.

A temporary waiver is available when a recipient determines after six months, that sales of the approved renewable fuel are not profitable. In that situation the recipient may request a six-month extension and waiver. The waiver may be continued for not more than four six-month intervals. Intervals may be consecutive or intermittent as the board deems necessary based on review of the documentation submitted by the recipient.

### **PUBLIC HEALTH DEPARTMENT**

Tuesday 11:00

Brain injury services program, IAB Vol. XXVIX No. 25, ARC 5914B, EMERGENCY.

This filing was reviewed, in draft form, by the committee at its' May, 2007 meeting. Legislation was enacted in 2006, House File 2772, creating the brain injury services program and empowered the department to adopt "emergency" rules subject to prior committee review. Initial legislation was enacted in 2005; House File 882 appropriated over \$2.4 million to initiate a services program.

The 2006 legislation created a detailed program with several components. The waiver eligible component provides services to individuals on a waiting list that qualify for brain injury waiver but the local match is not available through the Department of Human Services.

Under the cost-share component of the program individuals determined ineligible for the services

waiver because of fiscal criteria, functional criteria, or individuals who have no funding authorized or available will be eligible for the cost-share component of the Brian Injury Programs. The criteria for the cost-share program include:

- The age requirement of one month through 64 years
- The individual has to be diagnosed with a brain injury under Iowa code
- The individual is a resident and citizen of Iowa and the United States or a Qualified Alien
- Individual must meet the financial eligibility and also be willing to pay their share of the cost

The share provided by the individual is determined on a sliding scale based upon the individual's family income. That cost share cannot exceed 30 percent of the cost payable for the service. The cost share will be based on the following:

below 300% of the federal poverty level--	0%
300-350%-----	10%
350-400%-----	20%
400% and over-----	30%

Services are those available though the Department of Human Services Medicaid home and community based services waiver. Certified service providers must contract with The Department of Public Health and collect any cost share directly from the individuals. The Department of Health will provide oversight on the program and act as a fiscal agent. The Advisory Council on Brain Injuries will be responsible for oversight of this program.

The program is specifically not an entitlement; services are strictly limited to available funds.

### **IOWA FINANCE AUTHORITY**

Tuesday 11:30

2008 Qualified Allocation Plan (low-income housing tax credits), IAB Vol. XXX, No. 01, ARC 6014B, NOTICE.

Iowa law authorizes the authority to issue tax credits as an incentive to developers for the construction or rehabilitation of low income housing. Each year the authority updates the program for the current fiscal year.

The 2008 revisions make a variety of changes to the current program. The maximum tax credit

## THE RULES DIGEST

-4-

award per project is increased from \$600,000 to \$700,000. The tax credit cap for a single developer is now set at \$950,000; however the developer may submit applicants for several projects.. Numerous changes were made to the scoring criteria

The most significant changes involved the set-asides---portions of the credit fund earmarked for specific types of projects.. There are five set-asides: service-enriched, affordable assisted living, affordable preservation, underserved area and nonprofit. Four of these are revised.

Under the service-enriched set-aside a portion of the tax credit is reserved for developments that serve people with disabilities; at least 25% of the units must be set-aside and rented to families with a member who has a disability. This set-aside is reduced from 25% to 20%.

The affordable assisted living set-aside requires that no less than 40% of the low-income units must serve families with incomes at or below 40% of area median gross income if the development is located in a metropolitan statistical area. This set-aside is reduced from 10% to 7%.

The affordable preservation set-aside funds the preservation of existing federally assisted housing units. The set-aside is reduced from 20% to 10%.

The underserved area set-aside benefits counties that are not located in an metropolitan statistical area and have not received an allocation of tax credits in the past five years. Sixty counties are eligible for this set-aside; it is raised from 5% to 10%.

### EDUCATION DEPARTMENT

Tuesday 1:00

Special education, IAB Vol. XXVIX No. 25, ARC 5920B, NOTICE.

The department is re-writing the rules relating to special education programs. These rules implement the requirements set out in Code Chapter 256B and 34 CFR 300; these rules do not stand alone, they must be read in conjunction with the Iowa and federal statutes and rules. Multiple internal references require reading several rules in conjunction with each other.

The keystone of special education is that every school district must provide a "free appropriate

public education" to any resident child under the age of 21, who has a disability requiring specially designed instruction, to meet that child's unique needs. Under some circumstances the age may be extended up to 24. The term disability is broadly defined to include physical or developmental disabilities and behavior disorders. The specially designed instruction can include classroom, home, hospital, institutional, or other instruction as required.

Special education programs require "highly qualified" special education teachers for the core academic courses, who must hold at least a baccalaureate degree and have full state certification as a special education teacher. This requirement does not apply to private schools. Trained and supervised paraprofessionals or assistants may be used to assist in the provision of special education and related services.

Each eligible child must have an individualized education program (IEP) which specifies all the special education and related services the eligible child is to receive. Related services can include supplementary aids and services determined appropriate and necessary by the child's IEP team (see below) and can include nonacademic and extracurricular services and activities such as counseling services, athletics, transportation, health services, recreational activities

The individualized program must be in effect before special education and related services are provided.. At the beginning of each school year, a program must be in effect for each child with a disability.

A special team is responsible for developing, reviewing, or revising the IEP; the team consists of

- The parents of the child;
- At least one regular education teacher and one special education teacher of the child;
- A special education qualified representative of the public agency;
- An individual who can interpret the instructional implications of evaluation results;
- Other individuals who have knowledge or special expertise regarding the child;
- If appropriate, the child with a disability.

The team must review the IEP at least annually, to determine whether the annual goals for the child

## THE RULES DIGEST

-5-

are being achieved and to revise the program as appropriate.

Special education programs must be provided in the least restrictive environment. To the "maximum extent appropriate" children with disabilities are to be educated with children who are not disabled. Except as provided in the IEP disabled children are to be educated in the school that child would attend if not disabled. Special classes or separate schooling is limited to situations where the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. A child cannot be removed from a regular classroom solely because of needed modifications in the general education curriculum.

Placement of a disabled child can be a contentious issue and a very detailed complaint process is provided, including opportunities for mediation and a due process hearing. The rules also guarantee the parents an opportunity to review all education records and participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education.

Both area education agencies and local school districts are eligible for funding assistance, as outlined in the rules. This assistance cannot must not be used to reduce the level of expenditures from local funds for the education of disabled children.

### EDUCATION DEPARTMENT

Tuesday 1:00

Statewide voluntary pre-school program, IAB Vol. XXIX No. 26, ARC 5969B, EMERGENCY.

2007 Iowa Acts, House File 877 has created a voluntary pre-school program for four year old children. The Act requires the department to adopt rules to define the following preschool program requirements used to determine whether a local program qualifies as an approved local program.

- At least one teacher must be present for every 10 children during instructional time, with no more than 20 children per classroom. The teacher shall provide at least ten hours per week of intentional instruction, including instruction on the skills and knowledge included in the Iowa Early Learning Standards.
- The preschool curriculum shall be research-based or evidence-based.

- The children's learning and development shall be assessed based on a research-based or evidence-based assessment process.
- Staff development shall be available to all preschool teachers and staff.
- The preschool program shall provide adequate and appropriate space and facilities.
- The preschool program shall provide appropriate instructional materials and supplies.
- The preschool program shall provide adequate and appropriate meals or snacks.
- The preschool program shall involve families through at least one home visit, one family night and at least two family-teacher conferences per year.
- The preschool program shall make provisions for the integration of children from other state and federally funded preschool programs.
- The preschool program may collaborate with other agencies to provide more comprehensive services such as extended day care, transportation, health, hearing, vision or developmental screening.

Pre-school teachers must hold both a baccalaureate degrees and the appropriate license from the Board of Educational Examiners.

State funding for local programs is available through June 30, 2011. First priority is given to school districts that have a high percentage of children in poverty and priority is given to districts that do not currently have a program.

### ENVIRONMENTAL PROTECTION COMMISSION

Tuesday 2:15

Landfills regulation, IAB Vol. XXX, No. 01, ARC 5999B, ADOPTED.

Iowa Code §455B.304 sets out a myriad of rulemaking requirements relating to landfills including closure, postclosure, leachate control and treatment standards.

The department completes action on rules that in part are intended to curtail groundwater contamination from municipal solid waste (MSW) landfills. This newly adopted chapter 113 contains a variety of requirements; it should be noted that variances for "alternative methods" are available so long as the same goals of monitoring environmental impacts are met. The rules are intended to implement the federal Resource Conservation and Recovery Act (RCRA) and the federal rules implementing that Act.

Landfill units with a liner and leachate collection system that were constructed in accordance with

## THE RULES DIGEST

-6-

the existing rules may continue to be used for disposal. Compliance with the new rules will be required at the next time of construction, expansion or under a three-year implementation schedule.

The rules require a quality control and assurance program for all new construction, to ensure that the landfills are constructed as well or better than the detailed construction requirements specified in the rules. There are detailed site evaluation and construction requirements set out, as well as operational requirements for the day-to-day management of the facility.

There are new restrictions relating to the siting of a new or expanded landfill. A number of restrictions relate to nature of the site itself, such as a floodplain, a wetland or a fault, or the presence of an endangered species or cultural site. Other restrictions relate to neighboring facilities, such as airports or private residences. A new or expanded landfill, or the down gradient plume from a landfill, cannot be located within 1,000 feet of any well or community water system. The landfill must be set back 50 feet from the property line and 500 feet of "sensitive populations" (eg: existing occupied residences, recreational areas, child care facilities, educational facilities, or health care facilities).

A number of waste materials are banned from landfills; these include certain hazardous wastes that are easily flammable, reactive, corrosive or toxic. More specific examples include: PCB's in specified concentrations, free liquids, septage, radioactive material, asbestos, yard waste and appliances.

The rules set out a monitoring program to prevent contamination of the surface and groundwater. Detection groundwater monitoring is required throughout the active life of the landfill and the postclosure care period of 30 years. A surface water monitoring program may be required if there is reason to believe that surface water has been impacted as a result of seepage or other type of contamination. If detection monitoring reveals contamination assessment monitoring, involving periodic analysis and remediation may be required. The owner of the facility must provide financial assurance for the cost of remediation.

The rules conclude with closure and post closure requirements. Following closure of the facility a 30 year monitoring and maintenance program is required. The owner or operator of the facility must establish financial assurance for the costs of postclosure care. Financial assurance can include a trust fund, surety bond, irrevocable letter of credit, insurance or other financial instruments.

## EDUCATIONAL EXAMINERS BOARD

Wednesday 8:45

Statements of professional recognition, IAB Vol. XXVIX No. 25, ARC 5916B, EMERGENCY.

This "emergency" filed rule was informally reviewed at the committee's June meeting, with no action taken. Under board rules a school nurse may practice with either an endorsement or a "statement of professional recognition" (SPR). 2007 Acts, Senate File 277 now requires a baccalaureate degree for any SPR. Under §9 of the Act a nurse holding an SPR is defined as a "teacher" and is eligible for financial incentives offered by the teacher quality program.

Almost half of the school nurses in Iowa, 485, do not have a baccalaureate degree. At the June meeting there was some consensus that the new legislation did not preclude these nurses from continuing to serve, but they were not eligible to participate in the teacher quality program, which, under the language of the legislation, was limited to nurses who had attained a baccalaureate degree.

## NATURAL RESOURCES DEPARTMENT

Wednesday 9:00

Commercial fishing on the Mississippi River, IAB Vol. XXIX, No. 26, ARC 5956B, NOTICE.

This proposal contains five changes in rules relating to commercial fishing on the Mississippi River:

- no sturgeon less than 27 inches may be possessed in Iowa waters;
- no sturgeon may be harvested from gear set prior to midnight on October 15;
- closed areas that prohibit the use of entanglement gear below Iowa's locks and dams are established;
- restrictions on the use of entanglement gear are established;
- a requirement is established that bowfin must remain intact until they reach the final processing facility or business.

## THE RULES DIGEST

-7-

### NATURAL RESOURCES DEPARTMENT

Wednesday 9:00

Bobcat season, IAB Vol. XXX, No. 01, ARC 6001B,  
ADOPTED.

Under the previous rules there was a continuously closed season on the taking of bobcats. The department now implements a trapping season for 21 counties in Southern Iowa, allowing the taking of one bobcat per trapper, with a 150 total limit. There will be a 48 hour grace period after the 150 statewide limit is reached to allow trappers to clear their traps and collect any animal found in those traps. The trapper may retain the bobcat if the trapper has not yet reached the personal limit. Bobcats trapped after the grace period or in excess of the seasonal bag limit must be turned over to the department; the trapper will not be penalized. Opponents of this filing maintain that department studies are inaccurate and overestimate the number of bobcats.

This program is similar to the otter season established in 2006 and now retained for the 2007 season.

### IOWA LAW ENFORCEMENT ACADEMY

Wednesday 9:40

Reserve peace officers, IAB Vol. XXX, No. 01, ARC 6025B, NOTICE.

2007 Iowa Acts, Senate File 110, empowers the Academy with authority to establish standardized training and certification for reserve peace officers. These officers are volunteers who have regular police powers while on duty.

Under this proposal any person appointed as a reserve peace officer after July 1, 2007, must complete 80 hours of training and 40 hours of supervised time. Training will be provided by instructors in a community college or other facility approved by the law enforcement agency and the academy. The training consists of six "modules" with each module containing 12 to 16 hours of required training topics. Completion of each module requires passing a test with a score of 70 percent or better.

The 40 hours of supervised time requires direct supervision by a regular certified law enforcement

officer while performing activities such as ride-along time, jail time, or other assigned duties. One the training and supervised time is completed, the applicant will be certified as a reserve peace officer

Newly appointed reserve peace officers must be certified within 18 months from the date of their appointment. Officer appointed prior to July 1st, 2007 have until 2012 to obtain certification.

A certified regular law enforcement officer who leaves the profession may later return as a reserve office, but must obtain in-service training. The amount of the required training varies with the time spent out of service.

### SECRETARY OF STATE

Wednesday 10:00

Paper record requirement / reimbursement process, IAB Vol. XXX No. 01, ARC 5979B, EMERGENCY.

This emergency rule implements 2007 Iowa Acts, House File 911. The Act appropriates \$2,000,000 to be used to reimburse counties for the cost of updating voting machines that will provide voters with a paper record for review. All counties will be required to have voting machines that produce external paper records for voter review by the November 2008 elections. Reimbursements for this mandatory change will only be allowed for those counties that do not currently own the equipment by May 29, 2007. Partial and full reimbursement will be offered according to the equipment upgrade used by the county.

Reimbursements for the upgrades will be made after purchase provided that the county submits proper documentation of the mandatory upgrade. All eligible counties will receive enough funds for a minimum purchase of one paper record device for each direct recording electronic voting machine owned in by the county. The Secretary of State will not be reimbursing counties that fail to comply with the declaration deadline of June 15, 2007. A report on the expenditures will be submitted on or before December 31, 2007.

### LABOR DIVISION

Wednesday 10:30

Shoot fighting, IAB Vol. XXVIX No. 25, ARC 5929B and 5934B, NOTICE.

Shoot fighting, also known as extreme fighting, was initially regulated in 1996 as part of the Labor

## THE RULES DIGEST

-8-

Commissioners' role as Athletic Commissioner. Iowa Code Chapter 90A requires the Labor Commissioner to exercise regulatory authority over boxing and wrestling. Shoot fighting combines boxing, judo, kickboxing and wrestling. While this sport is not "boxing" or "wrestling" in the narrowest sense, it is clearly a fighting contest of the type the legislature intended to regulate in the interests of public safety and the welfare of the participants.

These proposals will hold the promoter responsible for the conduct of all officials and *participants* at a shoot-fighting event. The promoter will also be required to provide, at no cost to the fighter, \$25,000 of health insurance coverage on each fighter to provide for medical, surgical and hospital care for injuries sustained and illnesses contracted during the event. Any deductible is the sole responsibility of the promoter. Each promoter must also provide \$20,000 of life insurance coverage on each fighter to cover death caused by injuries sustained or illnesses contracted during the event.

Failure to provide proof of insurance is grounds to deny the issuance of a license for the event.

The existing rules for shoot fighting are substantially similar to those for all other forms of boxing; however, these two proposals place requirements on the promoter that are not imposed in boxing or wrestling competitions.

### COLLEGE STUDENT AID COMMISSION

Wednesday 10:50

Senate File 588: New financial assistance programs, IAB Vol. XXX No. 01, ARC 6006B, 6007B, 6008B, & 6011B EMERGENCY.

2007 Acts, Senate File 588 establishes several college financial assistance programs for students. The All Iowa Opportunity Scholarship Program provides tuition assistance to Iowa residents enrolled at eligible Iowa colleges and universities, based on their financial need. Applicants must graduate high school with at least a 2.5 cumulative grade point average and enter the college or university within two academic years of graduation from high school; applicants must be enrolled for at least three semester hours. To remain eligible,

student must maintain satisfactory academic progress as defined by the school.

To be eligible the applicants expected family contributions, as determined through the free application for federal student aid, must be at or below the average tuition and fees for regent university students for the academic year for which awards are being made will be considered for awards. The maximum award for full-time students is the average tuition and fees for regent university students for the award year or the tuition and fees actually paid by the student, whichever is less.

The All Iowa Opportunity Foster Care Grant Program provides grant assistance to persons 18 through 23 years old, who have been in Iowa foster care or a similar type of program, who demonstrate financial need, and who are enrolled at eligible Iowa colleges and universities. The program is developed in cooperation with the Department of Human Services and the Judicial Branch. Grant recipients must attend an Iowa community college, a Regents institution or an accredited private institution. For this program the rules require the college or university must have a substantial investment in a permanent Iowa campus and staff, and offer a full range of courses leading to the degrees offered by the institution as well as a full range of student services. Note this excludes a number of schools that offer largely internet-based educational opportunities.

Eligible applicants are ranked in order of the estimated amount which the applicant reasonably can be expected to contribute toward college expenses, and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit, with priority being given to applicants who were placed in the state training school or the Iowa juvenile home. If funds are insufficient to fund all applicants, awards will first be made to returning students who submit renewal applications by the application deadline. After all on-time renewals have been funded, awards will be made to new students and renewal students based on the application receipt date.

The registered nurse and nurse educator loan forgiveness program is established for nurse



## THE RULES DIGEST

-9-

educators teaching at eligible Iowa colleges and universities or registered nurses employed in Iowa. The program is open to registered nurses employed as nurses in Iowa or registered nurses who hold a baccalaureate or higher degree who are employed as teachers by eligible colleges or universities. Nurse educators will receive priority in funding. Registered nurses will receive funding after all eligible nurse educator applications have been funded. Recipients may receive loan forgiveness for no more than five consecutive years.

The teacher shortage loan forgiveness program is for Iowans teaching in designated teacher shortage areas as certified by the director of the Iowa department of education. The program is available to K-12 teachers who begin their first teaching jobs in Iowa on or after July 1, 2007 in a shortage area recognized by the Department of Education. Applicants must annually complete affidavits of practice verifying that they are teaching in eligible teacher shortage areas. Recipients may receive loan forgiveness for no more than five consecutive years.

### INSURANCE DIVISION

Wednesday 11:10

Regulation of securities, IAB Vol. XXIX, No. 26, ARC 5974B, ADOPTED.

The Division completes action on a general re-write its existing rules relating to securities regulation. This rulemaking is more of a reorganization and an updating than an expansion of existing regulations. The chapter consists of eight divisions, covering the following topics: definitions and administration: registration of broker-dealers and agents, registration of investment advisers, investment adviser representatives, and federal covered advisers; rules covering all registered persons; registration of securities; exemptions; fraud and other prohibited conduct; and viatical settlement investment contracts.

### INSURANCE DIVISION

11:10

Prearranged funeral contracts, IAB Vol. XXX, No. 01, ARC 5983B, EMERGENCY.

Senate File 559 significantly changed the way in which funeral contracts are regulated; any person who sells cemetery and funeral merchandise and

funeral services must obtain a "sales agent license" and operate on behalf of a preneed seller. An applicant is subject to a criminal history and financial history background check. Periodic continuing education is required. Any business wishing to sell preneed arrangements must now have a preneed seller license.

### HUMAN SERVICES DEPARTMENT

Wednesday 1:00

Family-centered child welfare services, IAB Vol. XXIX No. 25, ARC 5937B, ADOPTED.

This new program combines several existing services which provide assistance to victims of child abuse and children who have been adjudicated in need of assistance. Services available under this program include:

Safety monitoring and evaluation services. These services are designed to maintain children safely in their own families by providing safety monitoring and evaluation services during the assessment process. The monitor must be available to provide needed services on an around-the-clock basis.

Family safety, risk, and permanency services. These services are intended to achieve safety and permanency for children, regardless of the setting in which the children reside. The outcome may be to maintain children safely within their own families or with relatives, to reunite children safely to the homes of their parents or other relatives, or to achieve alternative permanent family connections for the child.

Drug testing services. Service providers must provide all of the following activities: collection of samples or installation of sweat patches or other drug testing devices, purchasing of supplies and devices, preservation and documentation of the chain of evidence for collected samples, laboratory testing and analysis fees, reporting of test results to the referring worker; and provision of court testimony if requested concerning testing results.

Family team meeting facilitation. This service involves the planning, preparation, arranging, facilitating, and reporting on a family team meeting on a child welfare case. This meeting consists of family members, friends, providers, the department worker, community professionals, and other interested people who develop a case permanency

## THE RULES DIGEST

-10-

plan for the safety, permanency, and well-being of a child or family.

Legal fees for permanency. This includes payments to an attorney for legal services associated with achieving greater permanency for children through either: modification of a child custody order, or creation of a guardianship or adoptive relationship for children who are residing with a relative or another suitable caretaker; and related legal fees, such as filing costs and reporting fees.

### HUMAN SERVICES DEPARTMENT

Wednesday 1:00

Annual Medicaid cards, IAB Vol. XXIX No. 25, ARC 5940, ADOPTED.

Under this rulemaking the department will issue Medicaid cards annually rather than monthly, anticipating a total annual savings of \$489,000. The department does not determine eligibility on a monthly basis any longer and for that reason believes an annual card is appropriate.

This revision was initially reviewed by the Committee in April, where it was opposed by medical service providers. Under this new system providers would be responsible for determining patient eligibility by contacting the department on a monthly basis; providers contend this is a huge time and paperwork burden. Department representatives stated the Medicaid card would be no different than any private insurance card---the service provider has no assurance that the card remains valid unless an immediate check is made.

At the Committees' June meeting the department conducted a demonstration to show how eligibility could quickly be determined using the Department's internet website, the Eligibility Verification System, which will have 48 interactive lines.

### HUMAN SERVICES DEPARTMENT

Wednesday 1:00

Emergency assistance, IAB Vol. XXX, No. 01, ARC 5982B, EMERGENCY AFTER NOTICE.

Senate File 305 created an Iowa individual disaster grant program to needy individuals who have disaster related expenses or serious needs that cannot be met by other financial assistance. 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. The initial rules were reviewed by the committee in April. This revision clarifies that the program will be discontinued in those areas where a federal disaster emergency has been declared and Persons seeking assistance under the program will be advised to apply for federal disaster assistance.

### PHARMACY BOARD OF EXAMINERS

----

Continuous quality improvement, IAB Vol. XXIX, No. 18, ARC 5925B, ADOPTED.

The controversial portion of this filing has been eliminated. When initially proposed in February, the notice outlined certain 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". The issue involved 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.

The withdrawal of this language 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 be adjudicated on a case-by-case basis through the contested case process.

The final rule now contains only a 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.

## PUBLIC DEFENDER

---

Rate changes, IAB Vol. XXX No. 01, ARC 6015B,  
EMERGENCY.

This emergency rule implements 2007 Acts, Senate File 575, raising the rates paid to court appointed indigent defense attorneys. The funding for the rates takes effect on July 1, 2007. The rates have increased by \$5 per hour for all attorney time except for on criminal cases which do not fall under Class A or B felonies. The rates for indigent defense as of July 1, 2007 are as follows:

Attorney time:

Class A felonies	\$ 70/hour
Class B felonies	\$ 65/hour
Other Criminal Cases	\$ 60/hour
Other Cases	\$ 60/ hour

The changes in juvenile appointed attorney's fees will also be increased to \$60/hour for fees incurred after June 30, 2006. Attorney's that withdrawal from frivolous lawsuits as of June 30, 2007 will also have an increased to the new amount of \$60 with the maximum fee of \$1,200 in each case. The withdrawal from the frivolous lawsuit must be done before the attorney files an attorney's proof brief. In cases in which the attorney joins another claim and in parental rights termination cases the fee limitations will also benefit from the \$5 increase raising their fee limits to \$600 per case.