



Administrative Rules Review Committee

THE RULES DIGEST

February
2016

Scheduled for Committee review
Friday, February 5, 2016
Room #116

Reference
XXXVIII IAB No. 14 (01/06/16)
XXXVIII IAB No. 15 (01/20/16)

HIGHLIGHTS IN THIS ISSUE:

MEDICAID MANAGED CARE, <i>Human Services Department</i>	2
PHYSICIAN ASSISTANT SUPERVISION, <i>Medicine Board</i>	5
SUMMER LITERACY PROGRAMS, <i>Education Department</i>	6
MANUFACTURING SALES TAX EXEMPTION, <i>Revenue Department</i>	6

Professional Licensure Division

9:20

Physician assistants—on-site visits by supervising physician, 03/18/15 IAB, ARC 1909C, ADOPTED, SESSION DELAY, SPECIAL REVIEW.

This rulemaking removes the requirement that a physician assistant who is practicing in a remote medical site must have a supervising physician physically visit and practice at the remote medical site at least every two weeks. The rulemaking was subject to a session delay by the committee in April 2015. The delay will expire at the end of the 2016 regular session of the General Assembly.

2015 Iowa Acts, Senate File 505, section 113 requires the Board of Medicine and the Board of Physician Assistants to jointly adopt rules to establish specific minimum standards or a definition of supervision for appropriate supervision of physician assistants by physicians. SF 505 required both boards to file notices of intended action on this subject by February 1. The Board of Physician Assistant's notice will be published in the February 17 Administrative Bulletin. The Board of Medicine's notice is discussed below.

Human Services Department

9:50

Mental health advocates, 01/06/16 IAB, ARC 2350C, NOTICE.

These proposed amendments establish standards for mental health advocates who provide services under Iowa Code chapter 229, as amended by 2015 Iowa Acts, House File 468. The amendments include standards for definitions, appointment and qualifications,

assignment, advocate and county responsibilities, data collection requirements, and quality assurance for mental health advocate services.

Prior to July 1, 2015, mental health advocates were appointed by the judicial branch and paid by the counties. HF 468 made mental health advocates county employees effective July 1, 2015. Prior to July 1, 2015, procedures varied from judicial region to judicial region and from county to county. These amendments establish statewide requirements for hiring the advocate and for performance standards.

Human Services Department

9:50

Implementation of Medicaid modernization initiative, 01/06/16 IAB, ARC 2361C, EMERGENCY AFTER NOTICE.

Managed care, 01/06/16 IAB, ARC 2358C, EMERGENCY AFTER NOTICE.

These rules implement managed care for Iowa's Medicaid program pursuant to 2015 Iowa Acts, SF 505. Under these rules, HAWK-I members, Iowa Health and Wellness members, and the majority of Medicaid members will have their services coordinated through a managed care organization.

The rules include requirements for managed care organizations to participate in a contract with the department, enrollment and disenrollment procedures, identification of covered services, access to services and consumer choice of providers, the member appeal and grievance process, record management and documentation, claims payment, quality assurance and program integrity, removal of existing language made obsolete by managed care, and other matters.

Various changes were made to the noticed rules based on extensive public comment received by the department, including but not limited to changes relating to medical equipment, accreditation of behavioral health intervention providers, self-help skills, developmental therapies, conformity with federal terminology, and acceptable reasons for disenrollment.

The department plans to implement managed care beginning March 1, 2016, pending approval from the federal Centers for Medicare & Medicaid Services.

Insurance Division

11:00

Prior authorization—prescription drug benefits, 01/06/16 IAB, ARC 2348C, ADOPTED.

These rules describe the requirements for prior authorization for prescription drug benefits pursuant to Iowa Code section 505.26. The rules provide prior authorization protocols and filing requirements. Iowa Code section 505.26 requires the Commissioner of Insurance to adopt rules to provide for a single prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers. The rules implement 2015 Iowa Acts, House File 632, section 9, which requires the commissioner to adopt rules that provide requirements, not to exceed seventy-two hours for urgent claims and five calendar days for non-urgent claims, for a health carrier or pharmacy benefits manager to respond to a health care provider's request for prior authorization of prescription drug benefits or to request additional information from a health care provider concerning such a request.

Labor Services Division

11:15

Standards for amusement rides and devices, concession booths, and bungee jump operations, 01/06/16 IAB, ARC 2354C, NOTICE.

These proposed amendments rescind and replace rules governing amusement rides and devices. Current rules have seen only minor modifications in the past 40 years and are obsolete. The proposed amendments adopt by reference ASTM Standards on Amusement Rides and Devices, which are national consensus standards developed with input from the amusement ride and device industry, and are flexible to cover new equipment. Separate standards specific to tramways and a new chapter for bungee jumping are also proposed.

The proposed new rules also clarify the scope of jurisdiction over amusement devices and concession booths; set forth procedures for owners to perform the required annual inspections in limited circumstances; set minimum standards for employees of amusement operations; codify existing practices for many administrative functions; set forth procedures for denial, termination, suspension, or revocation of an operating permit or sticker; set forth procedures for leasing covered equipment; and conform to various statutory provisions.

The division has terminated a prior rulemaking on this subject and incorporated comments received on that rulemaking into this rulemaking.

Public Safety Department

11:45

Wireless communications service provider database, 01/06/16 IAB, ARC 2335C, ADOPTED.

This rulemaking implements 2015 Iowa Acts, House File 447 by establishing a database of contact information for wireless communications service providers to be maintained by the department as part of the E911 call system. This database will only be used by a law enforcement officer, law enforcement agency, or a public safety answering point (PSAP), and only when there is an emergency situation that involves the risk of death or serious physical harm. Federal law already authorizes the creation and use of this database, and HF 447 and these rules create the specific steps to implement the database in Iowa.

In emergency situations where there is a risk of death or serious physical harm, this database will allow law enforcement officers, law enforcement agencies, and PSAPs to make immediate contact with a wireless communications service provider and obtain location information for a cell phone or other wireless communications device to help locate a person. This location information is already automatically collected by such devices and transmitted to and stored on the wireless service provider's system.

In all other situations, law enforcement will continue to act in accordance with existing legal requirements in accessing and obtaining location information, which can generally only be accessed by court order or subpoena.

Environmental Protection Commission

11:55

Application fees for construction and operation of air pollution emitting equipment; fees for asbestos notifications, 01/06/16 IAB, ARC 2352C, EMERGENCY AFTER NOTICE.

Pursuant to 2015 Iowa Acts, Senate File 488, these rules establish application fees for permits under Title V of the federal Clean Air Act for the construction and operation of air pollution emitting equipment and fees for asbestos notifications.

Industries that are already permitted and make no changes triggering the requirement for a modification to an existing construction permit will not have to pay a construction permit application fee. The rules and associated fees will apply to industries only when

they add new equipment or modify existing equipment that emits regulated air pollutants and to industries required to obtain a Title V operating permit.

The rules include the types of application and notification fees and the requirements to pay them; the dollar cap for each fee and the process for establishing fees in the fee schedule; limitations on how fee revenues may be expended; and requirements for the Department of Natural Resources (DNR) to meet annually with each fee advisory group.

The Title V emission dollar-per-ton cap is increased to \$70 per ton to reflect the estimated program expenses associated with projected actual emissions for FY 2017.

The rules clarify DNR's current practice of excluding greenhouse gases from annual Title V air emissions fees by adding "greenhouse gases" to the list of regulated pollutants that are excluded from Title V air emissions fees.

The rules set a flat fee for new source review applications from minor sources, including registration permits, permit by rule, and permit templates; and for asbestos notifications. In addition, the rules assess billable, hourly review fees during the application review process for new source review applications for major sources and for applications for initial and renewal Title V operating permits.

Fees established by the rules became effective on January 15, 2016. The Title V emissions fee will apply to Title V emissions fees due on or after July 1, 2016.

DNR will conduct a study to measure the time and cost of application review and permit issuance for new source review and operating permits. DNR will provide periodic reports regarding the progress of the study and will provide the results of this study to the fee advisory groups.

Medicine Board

1:10

Minimum standards for appropriate supervision of a physician assistant by a physician, 01/20/16 IAB, ARC 1909C, NOTICE.

These amendments establish rules governing the supervision of physician assistants by physicians. 2015 Iowa Acts, Senate File 505, section 113 requires the Board of Medicine and the Board of Physician Assistants to jointly adopt rules to establish specific minimum standards or a definition of supervision for appropriate supervision of physician assistants by physicians. SF 505 required both boards to file notices of intended action on this subject by February 1. This rulemaking is the Board of Medicine's notice. The Board

of Physician Assistant's similar notice will be published in the February 17 Administrative Bulletin. A previous rulemaking by the Board of Physician Assistants on this matter was subject to a session delay by the committee in April 2015. The delay will expire at the end of the 2016 regular session of the General Assembly.

These amendments include provisions relating to face-to-face meetings, mutual assessment of qualifications, communication, quarterly and annual reviews, delegated services, timely consultation, alternate supervision, and failure to supervise.

The jointly adopted rules can only be amended with the agreement of both boards and cannot be waived.

Education Department

1:35

Intensive summer literacy programs, 01/06/16 IAB, ARC 2343C, ADOPTED.

This rule establishes criteria and guidelines for implementation of intensive summer literacy programs by school districts as required by Iowa Code section 279.68. The criteria and guidelines are based on the work and recommendations of a task team convened by the Iowa Reading Research Center. The rule includes criteria for instructional practices or programs, instructor qualifications, instruction time, class and group size, student attendance, program evaluation, successful program completion, and program leadership and administration.

Several changes were made to the noticed rule based on extensive public comment received by the department, including adding a reference to addressing dyslexia, clarifying how a school district can employ personnel for purposes of the rule, reducing the minimum hours of instruction and attendance requirements, and adding an option to use a private provider instead of a school district.

Revenue Department

2:05

Qualification for manufacturing exemption, 01/06/16 IAB, ARC 2339C, ADOPTED.

This rulemaking amends rules relating to the manufacturing sale and use tax exemptions found in Iowa Code sections 423.3(47) and 423.3(48) and to the definitions of several applicable terms, including but not limited to definitions for tax-exempt "computers," "machinery," "equipment," "replacement parts," and "materials used to construct or self-construct computers, machinery, or equipment." The rulemaking also

amends rules on the treatment of these tax-exempt items as they relate to the taxation of construction activities under Iowa Code sections 423.2(1)(b) and 423.2(1)(c). Under the department's current rules, many of these items could be considered real property and taxed as building materials when purchased in furtherance of a construction contract, thereby making them ineligible for the manufacturing sales and use tax exemption. The rulemaking eliminates this distinction and provides that the items will be eligible for the manufacturing sales and use tax exemption.

The rulemaking is prospective and will only apply to sales occurring as part of a contract entered into on or after July 1, 2016.