



Administrative Rules Review Committee

THE RULES DIGEST

April
2016

Scheduled for Committee review
Friday, April 8, 2016
Room #116

Reference
XXXVIII IAB No. 18 (03/02/16)
XXXVIII IAB No. 19 (03/16/16)
XXXVIII IAB No. 20 (03/30/16)

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Human Services Department

9:10

Mental health advocates, 03/16/16 IAB, ARC 2438C, ADOPTED.

These amendments establish standards for mental health advocates who provide services under Iowa Code chapter 229, as amended by 2015 Iowa Acts, HF 468. 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. The amendments include standards for definitions, appointment and qualifications, assignments, advocate and county responsibilities, data collection requirements, and quality assurance.

The department received significant public comment when these amendments were noticed and made several changes in this adopted language regarding workforce coverage, quality assurance, and the definitions of “conflicts of interest” and “county where the individual is located.”

Human Services Department

9:10

Habilitation and brain injury and intellectual disability waiver programs—prevocational and supported employment services, 03/30/16 IAB, ARC 2471C, ADOPTED.

These amendments implement changes in employment service definitions as provided by the federal Centers for Medicaid and Medicare Services. The amendments also

change provider qualifications, scope of services, duration, limitation, and reimbursement methodologies for the home- and community-based services prevocational and supported employment services within the habilitation services program and the intellectual disability and brain injury waivers.

In response to significant public comment, the department has made various changes to the initially-noticed language, including changes relating to hours of staff credentialing, hiring qualifications, employment training, time limits for prevocational services, career exploration activities, volunteer opportunities and programs, job stabilization, self-employment, long-term job coaching, and age restrictions.

Professional Licensure Division

10:15

Physician assistants—on-site visits by supervising physician, 03/16/16 IAB, ARC 2436C, FILED EMERGENCY, also ARC 2440C, NOTICE.

This double-barreled rulemaking restores verbatim previously stricken language requiring that a physician assistant who is practicing in a remote medical site have a supervising physician physically visit and practice at the remote medical site at least every two weeks. The language was stricken by ARC 1909C, which was subject to a session delay by the committee at its April 2015 meeting. Because ARC 1909C never went into effect, this rulemaking maintains the status quo, meaning that biweekly visits will continue to be required. This emergency filing was authorized at the committee's February 2016 meeting.

2015 Iowa Acts, SF 505, §113 required 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. That rulemaking process is ongoing.

Public Health Department

10:35

Practice of tattooing, 03/16/16 IAB, ARC 2459C, NOTICE.

This rulemaking provides various updates to the department's rules on the practice of tattooing established pursuant to Iowa Code §135.37. The proposed amendments update definitions; update application requirements and fee schedules; establish deactivation and reinstatement fees to encourage timely renewals; increase fees for temporary tattoo establishments; add instructions for completing an online application that will be

available January 1, 2017; clarify general provisions for tattoo artists and tattoo establishments; clarify and update sanitation and infection control provisions; clarify tattoo equipment requirements and tattooing procedures; clarify establishment permit requirements; propose permitting requirements, a fee, and other guidelines for guest tattoo artists; propose that no new mobile tattoo units be permitted effective July 1, 2016; clarify inspection and inspector requirements; and clarify permit revocation and other enforcement actions.

The proposed amendments resulted from discussions held with a tattoo artist stakeholder group.

Public Health Department

10:35

Board-certified behavior analyst and board-certified assistant behavior analyst grants program, 03/16/16 IAB, ARC 2460C, NOTICE.

These proposed rules to implement the board-certified behavior analyst and board-certified assistant behavior analyst grants program enacted by 2015 Iowa Acts, SF 505, §68 and funded by SF 505, §§13(5) and 133(5). The program provides grants to Iowa resident and nonresident applicants who have been accepted for admission to or are attending a board of regents university, a community college, or an accredited private institution; are enrolled in a program to be eligible for board certification as a behavior analyst or assistant behavior analyst; and demonstrate financial need. The purpose of the program is to increase access to certified behavior analyst and certified assistant behavior analyst professionals. The rules provide for eligibility criteria, priority in grant awards for Iowa residents, grant amounts, uses of grant funds, and an applicant review process. The rules were written in cooperation with the Department of Education and the Department of Human Services' Autism Support Program.

Labor Services Division

11:10

Standards for amusement rides and devices, concession booths, and bungee jump operations, 03/02/16 IAB, ARC 2428C, 70-DAY DELAY, HELD OVER FROM MARCH.

These amendments rescind and replace the division's rules governing amusement rides and devices. Current rules have seen only minor modifications in the past 40 years and are obsolete. The 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 adopted.

The amendments 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.

At the committee's March meeting, the committee voted to impose a 70-day delay on this rulemaking. Members questioned whether it is appropriate for owners of inflatable amusement devices to conduct their own inspections instead of the division. Members also questioned who would be legal liability for such self-inspections, whether the state has sufficient amusement device inspectors, and which inflatable amusement devices are and are not subject to inspections. Members also expressed uncertainty regarding the entities that produce the various standards that are incorporated by reference into these rules. Members asked the division to provide the committee with further information regarding these questions.

College Student Aid Commission

11:50

Approval of postsecondary schools—interstate reciprocity agreement, registration, 03/16/16 IAB, ARC 2437C, AMENDED NOTICE.

These proposed rules implement 2015 Iowa Acts, SF 501 and 2014 Iowa Acts, SF 2271 by establishing policies that schools must follow in order to participate in an interstate reciprocity agreement under which the commission is an approved participant under Iowa Code chapter 261G. The amendments also update policies for schools that must register with the commission under Iowa Code chapter 261B.

The bills and rules implement the state's participation in the State Authorization Reciprocity Agreement (SARA), which is a process administered by regional education compacts by which participating states regulate postsecondary distance-education courses and programs on a uniform basis using a reciprocity process. Participation by states is voluntary. SARA is administered in Iowa by the commission.

In response to public comments received by the commission, this amended notice includes an additional rule to address the registration process specifically for schools

seeking approval to participate in a commission-approved state authorization reciprocity agreement.

Educational Examiners Board

12:05

Reading endorsements, 03/16/16 IAB, ARC 2450C, NOTICE.

This rulemaking rescinds and replaces language for the requirements for two teaching endorsements issued by the board: the reading endorsement and the reading specialist endorsement. The rulemaking contains detailed descriptions of the training necessary to qualify for these endorsements. The new language for these endorsements resulted from a periodic review to ensure alignment with research-based competencies, national standards, and the Iowa Core. The language reflects recommendations by a reading endorsement review committee comprised of current reading teachers, reading specialists, Department of Education and Reading Research Center consultants, and higher education faculty from a variety of Iowa institutions.

Inspections and Appeals Department

12:50

Regulation of elder group homes, assisted living programs, and adult day services, 03/16/16 IAB, ARC 2463C, ADOPTED.

This rulemaking comes after a comprehensive five-year review of the department's rules and makes a variety of changes to the department's rules for elder group homes, assisted living programs, and adult day services.

When this rulemaking was reviewed under notice at the committee's November 2015 meeting, public comment was heard on two issues from a representative of the Iowa Health Care Association and Iowa Center for Assisted Living. The commenter urged that adaptive clothing be exempted from the definition of "restraints," which would allow for it to be used in these facilities. She provided the committee with information regarding adaptive clothing, which a patient cannot remove on their own, but which still allows freedom of movement. The commenter also expressed concern about a new requirement that all facilities maintain awake staff 24 hours a day. She stated that this would be burdensome for certain smaller facilities, although most facilities do meet this standard already. Currently only certain dementia-specific programs have such a requirement.

In this adopted language, the department did not exempt adaptive clothing from the definition of "restraints," meaning that such clothing cannot be used in these facilities unless the department grants a waiver from this requirement. The department did not

include the noticed requirement that all facilities maintain awake staff 24 hours a day.

Revenue Department

1:20

Broadband infrastructure property tax exemption, 03/16/16 IAB, ARC 2466C, NOTICE.

This rulemaking implements the broadband infrastructure property tax exemption enacted by 2015 Iowa Acts, HF 655, §40, codified at Iowa Code §427.1(40). The rulemaking allows a property tax exemption for the installation of broadband infrastructure that meets certain requirements. The rulemaking includes the method of calculation for the exemption and procedures for application, revocation, and appeals.