



Administrative Rules Review Committee

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THE RULES DIGEST

February, 2008

Scheduled for committee review
Friday, Feb. 8, 2008 in Senate Committee Room #116

Reference
XXX IAB No. 15 (01/16/08)
XXX IAB No. 16 (01/30/08)

HIGHLIGHTS IN THIS ISSUE:

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UTILITIES DIVISION

8:10

Incident and outage reporting, IAB Vol. XXX No. 16, ARC 6547B, ADOPTED.

These rules were initially reviewed by the committee in October, 2007; the current provisions are being revised in response to the lessons learned from the February and March 2007 ice storms. The rules set out notification and reporting rules for natural gas, electric, and rate-regulated water utilities, and communications providers. Detailed requirements are set out for each type of utility. All utilities will now also be responsible for maintaining a 24-hour contact number where the board can obtain current information about outages and incidents from a knowledgeable person.

CORRECTIONS DEPARTMENT

8:20

Sale of products, IAB Vol. XXX No. 15, ARC 6538B, NOTICE.

Code §904.815 provides that Iowa state industries may produce and sell products to "any tax-supported institution or governmental subdivision in any level of government" and their employees, nonprofit organizations, including private schools and churches and to nonprofit health care facilities serving Medicaid or social

security patients. Both the existing rules and this proposal leave open the possibility of sales to the public.

These rules of organization and operation are substantially similar to the rules currently in place. The most significant change relates to procurement policy. In this proposal Prison Industries simply adopts the general policy of the Department of Administrative Services.

Both the current and proposed rules have detailed provisions relating to private industry employment for inmates, as authorized in Code §904.809. That section provides for the voluntary employment of inmates in the private section for private sector wages---with appropriate deductions for restitution, child support, fines and supervision costs. Prior to submitting an application for inmate labor, the employer must place with the nearest workforce development center a job order with a duration of at least 30 days.

PUBLIC SAFETY DEPARTMENT

8:30

Electrician and electrical contractor licensing, IAB Vol. XXX, No. 15, ARC 6535B, NOTICE and EMERGENCY.

2007 Iowa Acts, chapter 197 established an electrician and electrical contractor licensing program, administered within the Fire Marshal

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Division of the Department. The program is administered by a traditional licensing board. This state-wide licensing requirements replaces a myriad of local licensing requirements. A person who holds any class of license may perform the work authorized by that license anywhere within the state. A person who holds a special electrician license may perform the work which is authorized by that license endorsement. However, a person who holds a class B license can not perform work in a political subdivision which, by local ordinance, has restricted or barred such work by a person who holds a class B license.

Under the Act a variety of licenses are available:

- Electrical contractor-a class A or class B master electrician who is also registered with the state of Iowa as a contractor.
- Master electrician, class A-a person licensed to plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes.
- Master electrician, class B-a person licensed to plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment.
- Journeyman electrician, class A-a person licensed to wire for or install electrical wiring, apparatus, and equipment and to supervise apprentice electricians.
- Journeyman electrician, class B-a person licensed to wire for or install electrical wiring, apparatus, and equipment.
- Apprentice electrician-a person licensed by the board and learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a licensed person.
- Special electrician-a person licensed with a specific endorsement to wire or install special classes of electrical wiring, apparatus, equipment, or installations including irrigation system wiring, disconnecting and reconnecting of existing air conditioning and refrigeration, and sign installation..
- Unclassified person-a person who is not an apprentice who is learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a licensed person.

Licenses are for three years, excepting apprentice and unclassified licenses, which are for one year. An electrical contractor or any holder of an electrician license who is not employed by a licensed electrical contractor and who contracts to provide electrical work which requires a license must liability insurance in the amount of at least

one million dollars for all work performed which requires licensing.

An electrical contractor license may be issued to a person who holds a master electrician license and is registered as a contractor.

Applicants who are currently licensed as a master electrician in any jurisdiction are "grandfathered" in as a class A master. New applicants must hold a current class B master electrician license and pass an examination.

A class B master electrician license may be issued to a person who submits credible evidence of having worked for a total of eight years as a master electrician since 1989, beginning on or before December 31, 1989.

A class A journeyman electrician license may be issued in three ways; first, to a person who has completed an apprenticeship program registered by the Bureau of Apprenticeship and Training of the United States Department of Labor, has passed a supervised written examination and has completed four years of experience as an apprentice electrician. Second, persons licensed by a political subdivision as of December 31, 2007, as a journeyman electrician who has completed the apprenticeship program with at least four year of experience may be licensed without further examination. Lastly, person holding a current class B journeyman electrician license may obtain the class A license on passing a supervised written examination for journeyman electrician.

A class B journeyman electrician license may be issued to a person who presents credible evidence of having worked for a total of eight years as a journeyman or master electrician since 1989, and whose experience as a journeyman or master electrician began on or before December 31, 1990.

A special electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who meets the qualifications for one of four endorsements: irrigation system wiring, disconnecting and reconnecting existing air conditioning and refrigeration systems, sign installation, and residential electrician.

An apprentice electrician license may be issued to a person who is participating in an

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apprenticeship training program that is registered with the Bureau of Apprenticeship and Training. An apprentice electrician license may be issued for no more than six years, except in hardship cases.

A license as an unclassified person may be issued to a person who is employed by a licensed electrical contractor.

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Drunk and drugged driving—collection of sample, IAB XXX No. 15, ARC 6544B, Notice, ARC 6543B, EMERGENCY.

The department of public safety has adopted revised rules outlining the procedures for collecting and testing urine for alcohol and drug content. The collection of a urine sample must be in the presence of a peace officer of the same gender as the subject. The sample should be collected by the officer "[a]s soon as practicable." The rules describe the type of container to be used in collecting the sample. If possible, the officer is required to collect a second urine sample for alcohol testing. If a second sample cannot be collected, the officer shall submit a portion of the first sample and inform the criminalistics laboratory. When collection of the sample for alcohol testing is collected, a portion of the sample is transferred to a test tube containing 100 mg of sodium fluoride and anticoagulant. The rules also specify what information needs to be placed on sample's label.

The rules require the criminalistics laboratory web site to list of test kits known to meet the department's requirements. Officers wishing to use a test kit that is not on the list should inquire with the laboratory. The rules also provide a procedure for adding kits to the approved list.

NATURAL RESOURCE COMMISSION

8:50

Publicly owned lakes program, IAB Vol. XXX No. 15, ARC 6540B, NOTICE.

This program, in place since 1983, was last revised twelve years ago. The program creates a process to establish and maintain a priority list of watersheds above publicly owned lakes and reservoirs where private landowners are eligible to receive cost-share funding of up to 75 percent of the cost of approved permanent soil and water conservation practices. This proposal eliminates

significant portions of the existing rules. Current rules detail the rating system used to determine lake eligibility. The proposal eliminates the detailed system and simply provides:

"The commission shall annually establish a priority list of watersheds above publicly owned lakes. This list shall take into account the priority list for lake restoration so as best to protect and enhance fish and wildlife habitat, public recreation and the natural environment and the public's investment therein and to increase community commitment to watershed health, with the financial resources available."

* * *

Resource enhancement and protection program, IAB Vol. XXX No. 15, ARC 6541B, ADOPTED.

These provisions were initially reviewed by the Committee in August, 2007. The Resource Enhancement and Protection Program (REAP) invests in the enhancement and protection of the state's natural and cultural resources through grants. Under the program, county grants, city grants, and private cost-sharing program are first reviewed by a county resource enhancement committee. Applications are then examined by the commission.

REAP funds go into eight different programs based upon a percentages that are specified in the law. Those programs include: Conservation education; DNR open space; city parks and open space; soil and water enhancement; county conservation; DNR land management; historical resources; and roadside vegetation.

The proposed amendments clarify the selection criteria that committees shall use to evaluate grant applications. Many of the selection criteria remain the same. However, the description of each is more detailed. The revised selection criteria have also been assigned new weights in the scoring system.

The scoring system uses weighted criteria. This filing revises that system; each criterion is scored from 1 to 10, this change adds multipliers for each criterion---in effect assigning a weight for each weight. for example: a multiplier of four will be applied for a demonstrated relationship to the state comprehensive outdoor recreation plan, and a multiplier of three will be applied for the quality of the site or the project.

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PROPANE RESEARCH AND EDUCATION COUNCIL

9:10

Organization and operation, IAB Vol. XXX, No. 16, ARC 6553B, EMERGENCY.

Code Supplement §101C.3 creates the Iowa propane education and research council consisting of, nine members representing the retail propane marketers and one public member. There are a number of ex-officio, nonvoting members. The council will develop programs and projects that include:

- Safety and training;
- research and development of clean and efficient propane
- utilization equipment;
- information and education for the public related to the use of propane;
- assistance to persons who are eligible for the low-income home energy assistance program.

The council is similar to an agricultural assessment board in that its activities are funded by an assessment on each marketer---one-tenth of one cent on each gallon of odorized propane sold. This program is repealed December 31, 2014.

PUBLIC HEALTH DEPARTMENT

9:20

Healthy families, IAB Vol. XXX, No. 16, ARC 6572B, ADOPTED.

Code §135.106 establishes the healthy families Iowa program to provide home visitation services designed to improve the parenting skills of parents with newborns or small children, encourage child health and development, and prevent child abuse and neglect. Basically this is a voluntary program is intended to provide the parenting skills necessary to ensure child health and proper development, rooted in child abuse prevention. Service is provided by government or private, non-profit agencies through contract with the department. Contracts can run from year-to-year with an annual continuation application.

Standards for this program come from the national Healthy Families America program.

State Medical Examiner, IAB Vol. XXX, No. 16, ARC 6573B and 6574B, ADOPTED.

ARC 6573B sets up an inter-agency coordinating council "to provide a venue for the effective coordination of the functions and operations of the

office of the state medical examiner with the needs and interests of the department of public safety and the department of public health, with input and guidance from the governor's office." The council will meet at least quarterly; issues can include such things as proposed legislation and budgetary needs.

ARC 6574B creates an advisory council for the state medical examiner consisting of at least twelve members drawn from the legal, medical, pathology, public safety and mortuary communities. The council was actually established in 1999 in §691.6C "to advise and consult with the state medical examiner on a range of issues affecting the organization and functions of the office of the state medical examiner and the effectiveness of the medical examiner system in the state."

HUMAN SERVICES DEPARTMENT

9:40

Medicaid service providers: documentation, IAB Vol. XXX, No. 16, ARC 6316B, ADOPTED.

This filing was initially reviewed in December, 2007. These rules should resolve issues concerning the required documentation for Medicaid services by adding detail to the current requirements, and setting out specific documentation requirements for a number of specific types of Medicaid service providers. A medical record must establish:

- the *reason* for performing the service or activity;
- substantiate medical necessity; and
- demonstrate the level of care associated with the service.

The rules relating to Medicaid provider audits are also updated. Any Medicaid provider may be audited or reviewed at any time at the discretion of the department. These audits may occur when:

- The department has correctly paid claims for goods or services.
- The provider has furnished the services to Medicaid members.
- The provider has retained clinical and fiscal records that substantiate claims submitted for payment.
- The goods or services provided were in accordance with Iowa Medicaid policy.

The adopted rules do address an issue relating to appeals. The initial proposal restricted the introduction of new documentation at the time of appeal; the rationale being that documentation must be prepared at the time of the Medicaid service and

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that after-the-fact documentation is not reliable. This restriction has been eliminated. This does not mean that after-the-fact documentation will be admitted on appeal, but it give the appeal officer discretion to admit and consider the material if it would be appropriate.

* * *

Personal needs allowance, IAB Vol. XXVIV, No. 01, ARC 6586B, NOTICE.

The personal needs allowance is the amount of income a Medicaid resident is allowed to retain for clothing, toiletries, and other personal expenses. In 2006 House File 2319 sparked a controversy when it raised the allowance to 50 dollars; however, this increase was made applicable only to residents in a nursing home, thus excluding the residents of other types of care facilities, specifically those who serve the needs of those suffering from mental illness. The issue is now resolved in 2007 Iowa Acts, chapter 218, which increased the Medicaid personal needs allowance for ICF/MR, and ICF/MI, residents and also provided that residents who have less than 50 dollars monthly income may receive a supplemental state payment to bring their income up to 50 dollars if funding is specifically appropriated for this payment.

EDUCATION DEPARTMENT

10:10

Extracurricular competition, IAB Vol. XXX No. 15, ARC 6531B, NOTICE.

In 2006 the department revised the scholarship requirements rules for extracurricular competition, requiring each the student to be passing *all* coursework and be making "adequate progress" toward graduation, as defined in local policy. If the student fails to pass all such coursework, the student cannot compete in interscholastic athletic contests and competitions for 20 consecutive school days. That 20 day prohibition can be renewed if the student does not improve.

This proposal extends the prohibition from 20 school days to 30 calendar days (a similar time period) and clarifies an existing prohibition relating to dressing in full team uniform, participating in pre-game warm-up exercises with team members, and practicing with college teams.

PROFESSIONAL LICENSURE DIVISION

No Rep.

Funeral directors, IAB Vol. XXX, No. 15, ARC 6545B, NOTICE.

The proposal sets out a number of changes relating to the practice of mortuary science, which is conducted by a licensed funeral director. The proposal offers new rules which now specify the practices which require a funeral directors license, these include:

- a. Removal of the body.
- b. Embalming deceased human beings.
- c. Conducting funeral arrangements.
- d. Conducting funeral services when contracted to do so, including:
 - (1) Direct supervision of visitation and viewing.
 - (2) Funeral and memorial ceremonies.
 - (3) Committal and final disposition services.
- e. Cremation services).
- f. Signing death certificates.

The proposal also offers minor revisions to rules relating to cremation.

The proposal re-writes current rules relating to the licensing of funeral establishments and cremation establishments; adding much detail concerning establishments holding both licenses.

SECRETARY OF STATE

No Rep

Voter identification, IAB Vol. XXX, No. 15, ARC 6537B, EMERGENCY AFTER NOTICE.

2007 Iowa Acts, House File 653, provides a new process for persons who wish to register to vote on election day. The Act provides that a person eligible to register to vote and to vote may register in person at the polling place on election day by completing a voter registration form, making written oath, and providing proof of identity and proof of residency in the precinct. The required "current and valid" proof of identity is detailed in the Act. Besides a driver's license or non-operators permit, the legislation allows the following photographic identification documents: United States passport, United States military identification card, an identification card issued by an employer, a student identification card. In addition, if the photographic identification presented does not contain the person's current address in the precinct, the person must also

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present a second document that shows the person's name and address in the precinct. This includes: a residential lease, a property tax statement, a utility bill, a bank statement, a paycheck, a government check, or some other government document.

A person who does not have appropriate identification documents may have another registered voter from the same precinct attest to the person's identity and residence. The voter providing the attestation cannot have had their own identity and residence established by the attestation.