



Administrative Rules Review Committee

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THE RULES DIGEST

April, 2008

Scheduled for committee review
Friday, April 4th, 2008 in Senate Committee Room #22

Reference
XXX IAB No. 19 (03/12/08)
XXX IAB No. 20 (03/24/08)

HIGHLIGHTS IN THIS ISSUE:

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PUBLIC SAFETY DEPARTMENT

8:10

Certification program for alarm system contractors and installers, IAB XXX No. 20, ARC 6667B, NOTICE.

In 2007 Iowa Acts, chapter 197, the General Assembly created a certification program for alarm system contractors and installers. The program is administered by the state fire marshal in consultation with an eleven-member advisory board.

A certificate can have a number of specific endorsements for both contractors and installers, depending on the type of alarm system. Every contractor must designate a "responsible managing employee"; An employee working under the direction of a responsible managing employee is not required to obtain and maintain an individual fire extinguishing system contractor's certificate. A responsible managing employee must be a licensed professional engineer with competence in alarm system design or hold certificate or endorsement from one of the specified testing or certifying organizations.

In addition to a responsible managing employee a contractor must maintain liability insurance of \$500,000 per person, \$1,000,000 per occurrence,

and \$1,000,000 property damage. The contractor must also register with workforce development. The certification fee is \$300.

Similar to a managing employee, an alarm system installer must also be certified and hold the appropriate endorsement. The install must be a licensed professional engineer, with competence in alarm system design or hold an appropriate enforcement or certification. The certification fee is \$150.

As with any licensed profession, these certifications can be denied, suspended or revoked for a series of violations or offenses, as set out in the rules, Civil penalties may also be imposed, up to \$500 per day during which a violation has occurred and for every day until the violation is corrected.

CORRECTIONS DEPARTMENT

8:40

Jail facilities, IAB XXX No. 19, ARC 6641B, NOTICE.

The proposed rules amend and update existing departmental practices for jail inspections and jail operations, making minor changes to various definitions in chapter 50 of the department's rules. They also specify certain requirements for jail facilities which are constructed or significantly

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remodeled after January 1, 2008. According to the proposed rules, exercise areas, following January 1, 2008, are required to have a minimum ceiling height of 18 feet.

The proposed rules specify the procedure to inventory property taken from prisoners upon entering the jail and add bomb threats to the list of situations for which a jail administrator is required to have a written security plan.

Under this proposal, continuous observation of a prisoner restrained in a four/five-point position by staff may be conducted in part by closed circuit television (CCTV). However, personal visual observation must be made at least every 15 minutes. The proposed rules also specify that a jail's written suicide prevention plan must include annual training to recognize the potential for suicide. The jail's admission plan and procedure must include a mental health screening process and the jail is required to document all medication coming into the jail and the amount returned when a prisoner is released.

Finally, the proposed rules remove a provision that requires the removal of a disciplinary report from the prisoner's file if the prisoner is found not guilty of violating the jail's rules.

### LOTTERY AUTHORITY

8:50

Requirements for claiming a prize, IAB XXX No. 19, ARC 6652B, Notice, ARC 6651B, FILED EMERGENCY.

The Iowa Lottery Authority filed this rulemaking under notice and adopted the rules on February 20, 2008 under emergency filing provisions. This change was necessary due to concerns that a winning lottery ticket could be fraudulently signed.

The rules require a player to sign the original lottery ticket prior to presenting the ticket for checking or validation. The rules also require the lottery and retailers to verify that there is a signature on any ticket submitted for checking or validation. Finally, the rulemaking removes a provision which allows the payment of a prize to the physical possessor of an unsigned ticket or to the person whose signature appears on the ticket.

### TRANSPORTATION DEPARTMENT

9:00

Outdoor advertising, IAB XXX No. 19, ARC 6637B, NOTICE.

This proposed rulemaking amends the department's rules relating to outdoor advertising along interstate, freeway-primary, and primary highways. The rules eliminate reference to municipal, county, and school district recognition signs due to the revocation of permit requirements for these signs in 2006.

The proposed rules add a definition of "LED display", amend other provisions to accommodate the definition, and specify under what conditions a LED display may be used. The proposed rules also amend and clarify the definitions of "modifications", "regularly used", and "service club or religious notice".

The proposed rules make conforming amendments to certain rules relating to obstructions in the right-of-way based on legislation from 2006. The department proposes amendments to its rules relating to signs with flashing, intermittent, or moving lights by distinguishing between on-premises and off-premises signs and removing restrictions for on-premises signs that were incorrectly included in the existing rules.

The proposed rules make changes to rules relating to advertising devices along interstate highways by specifying that an advertising device visible from an interstate highway must be located within an area zoned and used for commercial or industrial purposes, within 750 feet of the regularly used portion of a commercial or industrial activity visible from the main-traveled way, and on the same, individual, platted parcel of land as the commercial or industrial activity. The proposed rules also clarify that side-by-side or double deck sign configurations are considered to be a single face and a single square footage.

The department proposes amendments to rules relating to abandoned and illegal advertising devices by adopting provisions similar to the statutory language in Code §§306B.5 and 306C.19. Additionally, the department proposes removing provisions relating to the sale of used advertising structures because such a process is not provided

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for in the Code and the department has had little success in selling such structures.

The proposed rules implement Code §306C.11 that allows businesses located within the limits of a commercial or industrial development to advertise on a sign located anywhere in the district regardless of land ownership. The proposed rules define "development directory sign", allow the name of a business to appear on no more than two development directory signs visible to traffic in any one direction, and includes requirements for a commercial or industrial development that are based on the requirements of federal law and Federal Highway Administration regulations.

### PHARMACY BOARD

9:15

Pharmacy technicians, IAB XXX No. 20, ARC 6668B, ADOPTED.

Under current law the certification of pharmacy technicians is voluntary, but beginning July 1, 2010, the certification of pharmacy technicians is mandatory, pursuant to 2007 Iowa Acts, Chapter 20. On that date all applicants for a new pharmacy technician registration or technician renewal must provide proof of current certification by either the PTCB pharmacy technician certification program and examination, the ICPT certification program and the ExCPT. Continuing education is not required for renewal. Trainees may be register for a single, one-year period. The biennial registration fee is \$50.

Responsibility for the actions of a pharmacy technician remains with the supervising pharmacist. The pharmacist must provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to delivery. A technician cannot be delegated a task requiring the professional judgment of a pharmacist, such as patient counseling, final verification of a prescription or interpret prescription drug orders or apply information. The technician may:

- Perform packaging, manipulative, or repetitive tasks relating to the processing of a prescription or medication order;
- Accept prescription refill authorizations from a prescriber;

- Contact prescribers to obtain prescription refill authorizations;
- Collect patient information;
- Enter prescription and patient information;
- Inspect drug supplies.

\* \* \*

Telepharmacies, IAB XXX No. 20, ARC 6670B, ADOPTED.

In a re-write of existing rules relating to automated medication distribution systems the board is adding new provisions related to telepharmacies. This new concept involves the provision of pharmaceutical care services from a remote location using an automated dispensing system; the managing pharmacist is not physically present at the remote location, which is staffed by a pharmacy technician. A number of services may *only* be provided by a pharmacist, and cannot be delegated to the technician:

- Receiving an oral prescription drug order for dispensing to a patient at the remote site;
- Interpreting a prescription drug order;
- Verifying the accuracy of prescription data entry;
- Interpreting the patient's drug record and conducting a drug use review;
- Authorizing the automated system to dispense a prescription drug and print a prescription label at the remote site;
- Performing the final verification of a dispensed prescription;
- Counseling the patient;
- Completing and documenting the monthly inspection of the remote site.

The remote location must be licensed as a pharmacy and is considered an extension of the managing pharmacy. The pharmacy board may license a remote location if the managing pharmacy can demonstrate to the board that there is limited access to pharmacy services in the community where the remote site is located. The board will evaluate the request based on these standards:

- the availability of pharmacists in the community;
- whether the request is for availability of patient care in a critical access area or is solely for the benefit of the managing pharmacy;
- whether any benefit to the managing pharmacy will balance the benefit to the patients of the remote dispensing site;
- the population of the community to be served by the remote site, and the need for the service.

The board will not approve a remote dispensing site if a general pharmacy is located within the

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same community as the proposed remote site or is located within 15 miles of the proposed remote dispensing site.

### **PUBLIC HEALTH DEPARTMENT**

9:40

Office of multi-cultural health, IAB XXX No. 20, ARC 6684B, NOTICE.

In 2006 the legislature created the office of multi-cultural health, this newly created agency deals with health issues faced by "racial, ethnic, and linguistic multicultural individuals and families, immigrants and refugees." The office will collect information on the health status of multi-cultural communities, provide information and assistance to deal with health care needs in multi-cultural communities.

A 15-member advisory council is part of the office, made up of representative from each of the six local public health service regions, community and business leaders and service providers.

### **REVENUE DEPARTMENT**

9:50

Valuation of agricultural real estate, 701 IAC 71.3, SPECIAL REVIEW.

This rule was published in January, 2007 and was initially reviewed by the Committee in February 2007. At that time discussion centered around the valuation of commercial real estate.

The rule was reviewed again at the Committees' September meeting; at that time the focus was the rules impact on agricultural real estate. Under rule 71.3 agricultural real estate is assessed at its actual value by giving exclusive consideration to its productivity and net earning capacity. To determine value for agricultural buildings and structures, an "agricultural factor" is developed, specific to the area. Simply put, under the rule the assessment of buildings should be at the same ratio of actual value as the productivity assessment is to market value of agricultural land. It was generally agreed that the rule itself was proper and that farm structures had a lower value than the farmland itself. However, by lowering the value of buildings, the valuation of the farmland itself is increased.

Discussion at the September meeting revealed that agricultural building assessments vary significantly by county and somewhat by building type. Department representatives noted that perhaps

only 35% of the counties are in substantial compliance with this rule. As a result of this discussion the Committee referred this rule to the Ways and Means committee of the House and Senate.

### **HUMAN SERVICES DEPARTMENT**

10:15

HAWK-I, IAB Vol. XXX No. 17, ARC 6650B, ADOPTED.

This filing contains a variety of amendments to the Hawk-I program. The program provides health care coverage for Iowa children, under 19, in families with limited incomes. The rules clarify a number of issues. In determining family size, children who are *not* applying for coverage will not be counted in determining family size. The amendments also clarify that generally the children of state employees are not eligible for Hawk-I (the state maintains an insurance program), unless the state contribution is limited to ten dollars per month.

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Home and community-based services, IAB Vol. XXX No. 18, ARC 6669B, NOTICE.

This proposal sets out a number of revisions to provider requirements for home and community-based services. The most significant amendments revise current incident reporting standards relating to habilitation providers and mental retardation, brain injury, and children's mental health waiver service providers. These provisions make the incident standards uniform for the various types of service providers

The amendments add definitions for major and minor incidents; both must be reported, major incidents (generally involving serious injury or other major consequences) must be reported to the individual's legal guardian. A uniform policy is set out for the use of restraints.

### **PETROLEUM UST FUND BOARD**

No Rep

Reimbursement of claims for removal of eligible upgraded underground storage tanks, IAB XXX No. 19, ARC 6648B, NOTICE.

The proposed amendment modifies rules and procedures for the reimbursement of claims for the removal of eligible upgraded underground storage tanks pursuant to Code §455G.9. According to the board, some of the amendments are intended to

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address comments received after the public comment period for the recent rule making to implement 2007 Iowa Acts, Senate File 499.

The amendment broadens the number of eligible sites by including reimbursement for sites under the marketability fund created in Code §455G.21 in addition to sites that qualify under §455G.9. The proposed rules also allow the board to remove tanks at sites that fail to meet other requirements of the amended subrule; however, these sites are subject to costs recovery, which may include a lien on the property.

The proposed rules specify that for claims submitted in situations where the tank owner and the claimant are different parties, the board will reimburse costs after payment of the invoices and after acknowledgment consenting to the work is submitted by both parties.