



Fiscal Services Division

ADMINISTRATIVE RULES – FISCAL IMPACT SUMMARIES

August 11, 2015

Iowa Code section 17A.4(4) requires the Legislative Services Agency (LSA) to analyze the fiscal impact of all administrative rules with an impact of \$100,000 or more and provide a summary of the impact to the Administrative Rules Review Committee (ARRC). Fiscal Impact Statements filed by State agencies can be found on our website at <http://www.legis.iowa.gov/law/administrativeRules/arrc/fiscalImpact>

Table of Contents			
Agency	Page	Agency	Page
Department of Human Services	1	Department of Revenue	4
Accountancy Examining Board	2	Natural Resource Commission	5
Department of Agriculture and Land Stewardship	2	Environmental Protection Commission	6
Department of Inspections and Appeals	3	Department of Corrections	8
Department of Public Health	3	Pharmacy Board	8
Department of Public Safety	4	Department of Transportation	9
Regents Board	4		

Department of Human Services

ARC 2062C

Rule Summary Updates rules to refer to the “current version” of the resource. The definitions “mental retardation,” “developmental disorders,” and “serious emotional disturbance” are updated pursuant to the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), and the reference to “V codes” is eliminated pursuant to the elimination of that designation in the International Classification of Diseases (ICD-10). ICD diagnoses listed in the administrative rules regarding coverage of chiropractic manipulative therapy (CMT) (78.8(2)) and coverage of mental health and substance abuse services (88.61 and 88.65(5)) are updated pursuant to ICD-10. The diagnosis of “bulimia” is updated to “bulimia nervosa” and the diagnosis of “bulimarexia” is eliminated pursuant to DSM-5. Rules regarding Medicaid reimbursement for outpatient hospital services at 79.1(16), include a definition of ICD at 79.1(16)(a). However, the defined term is not used in the current version of 79.1(16). Therefore, the definition is eliminated as obsolete.

Agency Stated Authority: Iowa Code section 249A.4.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

ARC 2061C

Rule Summary Updates references to the current credentialing requirements of the National Register of Health Service Psychologists. The Centers for Medicare and Medicaid Services (CMS) claim form requirements for payment of some Medicaid program services is currently referred to as “UB-92.” This form is outdated. These amendments update references to the current UB-04 CMS claim form. The option to copy rather than purchase CMS claim forms for Medicaid billing purposes is also eliminated.

Agency Stated Authority: Iowa Code section 249A.4.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

ARC 2050C

Rule Summary

Adopts the following changes:

- Removes transportation to medical appointments from the Home and Community-Based Services (HCBS) Waiver Transportation service description and clarifies the use of transportation when provided as part of the Supported Community Living (SCL) service in the Intellectual Disability (ID) and Brain Injury (BI) waivers.
- Removes a “related condition” as a basis of eligibility for Residential-Based Supported Community Living (RBSCCL) services under the ID Waiver. No children have accessed this service within the “related condition” diagnostic category.
- Changes the definition of an Intellectual Disability to the updated Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM 5).
- Updates the BI waiver SCL service to be the same as the ID waiver SCL service that allows transportation to and from work or day programs to be an SCL service component.

Agency Stated Authority: Iowa Code section 249A.4.

Fiscal Impact

Agency Response: The change related to HCBS transportation is expected to result in State General Fund savings of approximately \$100,000 in FY 2015 and is expected to be budget neutral in FY 2016 and beyond.

LSA Response: The LSA concurs.

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Accountancy Examining Board

ARC 2058C

Rule Summary

Adopts proposed amendments as necessitated by SF 198, enacted on March 31, 2015. Corresponding rule changes are required to update the definition of “report” and the associated changes to the breadth of what services are included within the definition of “attest.” The proposed rule changes also include updating some outdated information.

Agency Stated Authority: Iowa Code section 524.4.

Fiscal Impact

Agency Response: No fiscal impact.

LSA Response: The LSA concurs.

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Department of Agriculture and Land Stewardship

ARC 2059C

Rule Summary

Updates the standards for handling and storing anhydrous ammonia. Adopts new national standards.

Agency Stated Authority: Iowa Code section 200.1.

Fiscal Impact

Agency Response: No fiscal impact.

LSA Response: The LSA concurs.

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Department of Inspections and Appeals

ARC 2067C

Rule Summary Adopts changes to Iowa’s elder group, assisted living, and adult day service programs as enacted in HF 579 on April 24, 2015. The legislation permits programs to request a contested case hearing pursuant to Iowa Code chapter 17A without first going through the informal conference process. HF 579 was enacted on July 1, 2015.

Agency Stated Authority: Iowa Code section 231B.2, 231C.3, and 231D.2.

Fiscal Impact **Agency Response:** No fiscal impact. There is a potential for cost saving as regulated entities will no longer need to use the informal conference process before seeking a contested case hearing under Iowa Code chapter 17A.

LSA Response: The LSA concurs.

ARC 2068C

Rule Summary Implements changes enacted in SF 401. The changes provide provide for an increase in the number of publicly funded subacute facility beds from 50 to 75 and also allows for the treatment of individuals involuntarily hospitalized under Iowa Code chapter 229, eliminating the requirement that such persons be voluntarily admitted to a facility.

Agency Stated Authority: Iowa Code section 135G.10.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

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Department of Public Health

ARC 2066C

Rule Summary Amends the Medical Residency Training State Matching Grant Program to do the following:

- Permits applicants to have budgeted matching dollars and not have them reserved.
- Increases the match for new medical residency programs from 25.0% to 100.0%.
- Increases the cap for awards to new medical residency programs to 50.0% of all available funds and decreases the maximum cap award to 25.0% of funds for all other recipients.
- Provides that contracts with a program sponsor must be for a minimum of three years.

Agency Stated Authority: Iowa Code section 135.176.

Fiscal Impact **Agency Response:** Senate File 274 makes changes in the rules language that impacts the funding match and demonstration of match for medical residency programs. The rule will not introduce additional costs for private entities.

LSA Response: The corresponding Fiscal Note for SF 274 outlined that under the new award caps, an eligible new medical residency program could increase the maximum award from \$500,000 to \$1.0 million. Any programs expanding medical residency slots or programs in excess of the federal residency capacity are limited to \$500,000 and not eligible for any additional funds if less than 95.0% of all are funds awarded. The rule has no General Fund impact.

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Department of Public Safety

ARC 2057C

Rule Summary Establishes procedures for issuing licenses to master electricians licensed in states that have entered into reciprocal licensing agreements with the Board and also creates procedures for refunding and correcting the mailing address of the Board for submitting requests for waivers of administrative rules to the Board. The proposed amendments update rules regarding post secondary education requirements to clarify requirements for qualification for a journeyman license and to set requirements for qualification for a residential electrician license. The proposed amendments also update rules regarding organization reporting and electrical inspection programs operated by political subdivisions to clarify requirements for the certification of electrical inspectors.

Agency Stated Authority: Iowa Code chapter 103.

Fiscal Impact **Agency Response:** The only fiscal impact will be the tuition and expenses paid for the post secondary education programs and the fees paid to be licensed.

LSA Response: The LSA concurs.

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Regents Board

ARC 2051C

Rule Summary Provides an alternative formula for the three Regents universities to use in the Regent Admission Index (RAI) for high school students in school districts that do not assign a class rank. Until now, each university had developed a substitute for the missing class rank; the new formula provides consistency between the universities.

Agency Stated Authority: Iowa Code section 262.9(3).

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

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Department of Revenue

ARC 2060C

Rule Summary Implements Section 3 of HF 616 as enacted on June 18, 2015. Section 3 amends the definition of properties that meet the requirements for dual classification for property tax purposes. Properties that have a primary use that meets the definition of multiresidential property, but that also have portions of the property that meet the definition of commercial or industrial property, receive a dual classification of

multiresidential/commercial or multiresidential/industrial. Additionally, properties in which the primary use meets the definition of commercial or industrial classifications, but have a portion of the property used or intended for human habitation, will continue to receive a dual classification as well.

Agency Stated Authority: Iowa Code section 421.17.

Fiscal Impact

Agency Response: Section 3 of HF 616 is expected to increase property taxes statewide for properties that have both commercial or industrial use and use for human habitation. It is likely that the statewide impact will exceed \$100,000 annually.

LSA Response: The LSA concurs with additional comments. The new language implemented by Section 3 of HF 616 allows certain mixed-used properties to qualify for the State-funded Business Property Tax Credit. The credit is funded by a standing limited appropriation. Adding additional qualified properties to the Business Property Tax Credit will not increase the State General Fund appropriation for the credit as that appropriation is capped at \$125.0 million per year, beginning in FY 2017.

Assigning a dual classification to additional properties is also expected to lead to an increase in commercial/industrial property values and a decrease in multiresidential values. Commercial/industrial property is subject to a 90.0% rollback and local governments are reimbursed for the reduced revenue that results from the 90.0% rollback. The new language will result in additional property value subject to the 90.0% rollback and reimbursement, and the change first impacts assessment year 2015 (FY 2017). To the extent the new language increases the amount of commercial/industrial property that requires reimbursement by the State, the new language will increase the standing appropriation necessary to backfill local governments. Although the total impact cannot be estimated at this time, it will likely exceed \$1.0 million annually.

In some instances, mixed-use properties will have a higher taxable value than under current law, leading to higher tax revenue for local governments in communities where impacted properties are located.

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Natural Resource Commission

ARC 2055C

Rule Summary

Exempts the future management of Honey Creek Resort State Park from existing concession rules. The exemption allows more flexibility and maintains the Resort with minimal public, financial, and administrative resources.

Current concession rules are geared toward concessionaires that sell firewood, maintain vending machines, or may operate a single facility that sells food. The rule change requires the Honey Creek Resort State Park management team to be governed by competitive-bid contracts.

Agency Stated Authority: Iowa Code section 455A.5.

Fiscal Impact

Agency Response: The fiscal impact cannot be determined.

LSA Response: The LSA concurs. The rules will minimize future State investments at the Resort as private entities will invest more in the property. The State continues to hold the title of the property and will approve all capital investments.

ARC 2052C

- Rule Summary** Amends rental fees at State parks, including:
- Establishes rental fees for new, modern two-bedroom family cabins constructed at Lake Darling State Park in 2015.
 - Restructures the rental listing for Lake Darling to clarify the different cabin types and their fees.
 - Removes the cabin rental fee for the cabin at Wilson Island that was destroyed in the 2011 flood because the cabin is not being replaced.
 - Establishes two new categories of open picnic shelters and sets the fees. This includes large open shelters and beach cabana-style open shelters.
 - Updates the park rules that are applicable to Honey Creek Resort State Park.

Agency Stated Authority: Iowa Code section 455A.5.

Fiscal Impact **Agency Response:** No additional expenditures will be incurred. Rental income is estimated to increase by \$136,000 (does not include tax or reservation fees) during FY 2016. This includes \$110,000 for cabin rental and \$26,000 for the shelter rental. Rental fees are deposited in the Land and Water Conservation Fund.

LSA Response: The LSA concurs. A public hearing was held on April 21, 2015, and there were no public comments.

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Environmental Protection Commission

ARC 2053C

Rule Summary Revises the rules governing the use of the Cambrian-Ordovician Aquifer, commonly called the Jordan Aquifer, in Iowa.

The Jordan Aquifer extends underneath much of Iowa and is a significant well water source to the State. Protection from overuse of the resource is needed in some parts of Iowa. The changes established by this rulemaking will affect any entity with a water allocation permit in the Jordan Aquifer. A water allocation permit is required when anyone withdraws at least 25,000 gallons in a single day during the year. There are approximately 200 permitted entities with 350 Jordan Aquifer wells in the State. Rule changes include:

- Chapter 50 amends the definition of “aquifer”, and adds the definitions of “confined aquifer” and “water use reduction plan”.
- Chapter 52 makes the following changes:
 - Adds three tiers for water allocation permits. Tier 1 wells will follow standard water use reporting procedures with no additional requirements. Tier 2 and Tier 3 wells will have additional requirements that include site-specific water use reduction plans.
 - Allows the Department of Natural Resources (DNR) to take action if water levels decline beyond the Tier 3 level.
 - Changes the permit cycle from 10 years to 5 years.
 - Requires a well construction permit prior to building a new well to ensure there is adequate water allocation before construction begins.
 - Retains the current 200 gallons per minute restriction on irrigation, recreational, and aesthetic uses.
 - Retains the 2,000 gallons per minute restriction on industrial and power generation uses.
 - States that use of water pumping levels, past actual static levels, and/or models will determine the water action level.

- Prohibits once-through cooling or geothermal use, but allows geothermal use if all of the withdrawn water is injected back into the aquifer.
- Chapter 53 adds two areas to the protected source rules. One area is in Johnson and Linn counties and the other is in Webster County.

After public hearings were held the following clarifications were made:

- Clarifies that water use reduction goals can be met through one or more of the categories and that a separate goal for each category is not required.
- Differentiates the language for well construction permitting duties for the Jordan Aquifer wells between the DNR and the county. The DNR will issue the permits for the construction of wells withdrawing water from the Jordan Aquifer. The county will issue the well construction permits for the non-public water supply wells withdrawing water from the Jordan Aquifer that are not in a protected source area.

Agency Stated Authority: Iowa Code sections 455B.105, 455B.173, and 455B.263.

Fiscal Impact

Agency Response: The estimated fiscal impact is less than \$100,000 per year with expenditures related to the issuance of additional permits. The DNR will pay for the additional expenditures from its existing budget.

LSA Response: The LSA concurs.

Rule Summary

ARC 2054C

Revises General Permit No. 2 that authorizes the discharge of storm water from construction sites. The changes implement the federal effluent guidelines for Construction and Development Point Sources that include the preservation of topsoil at construction sites. The current requirement is that if four inches or more of topsoil existed prior to development, a minimum of four inches is to be in place on the surface after construction is complete, unless land use precludes the practice. Residential developers and builders believe current requirements are too costly. Proposed changes will not require a covering of topsoil over the entire site but will require the topsoil to be somewhere on or under the surface of the permitted site unless the developer or builder determines it is not economically practicable and achievable.

After three public hearings, the following paragraph was changed to add the word "authorization" at the end of the sentence:

"Unless infeasible, preserve topsoil" shall mean that, unless infeasible, topsoil from any areas of the site where the surface of the ground for the permitted construction activities is disturbed, shall remain within the area covered by the applicable General Permit No. 2 authorization."

Agency Stated Authority: Iowa Code section 455B.103A.

Fiscal Impact

Agency Response: No fiscal impact to the DNR. No additional activity by state personnel will be required by these changes as the storm water program already exists and the proposed changes will not increase the existing workload.

LSA Response: The LSA concurs.

Corrections Department

ARC 2056C

Rule Summary Amends Iowa Prison Industries (IPI) rules. This is an adopted and filed rule. The Department of Corrections (DOC) intends to rescind these rules per the Iowa Administrative Bulletin dated August 19, 2015, with **ARC 2100C**. That rule restores verbatim the text of Chapter 37 that was in effect prior to July 8, 2015.

Agency Stated Authority: Iowa Code section 904.804.

Fiscal Impact **Agency Response:** These rule changes do not add costs. The changes permit products to be sold to contractors when the products will be included in a construction, renovation, or remodeling project of an authorized customer outlined in Iowa Code section 904.815.

LSA Response: The LSA concurs. See the ***Fiscal Topic*** Iowa Prison Industries - Private Sector Employment Program for information regarding the administration of that offender work program.

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Pharmacy Board

ARC 2065C

Rule Summary Amends rules to permit pharmacies to utilize other sources, including electronic or Internet-based sources, for Iowa pharmacy laws, rules, and regulations.

Agency Stated Authority: Iowa Code section 155A.31.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

ARC 2063C

Rule Summary Permits, as authorized by federal law, the administration of any influenza or pneumococcal vaccine to a hospital or long-term care facility patient pursuant to physician-approved hospital or facility policy after the patient has been assessed for contraindications. Current rules limit this authority to the administration of influenza and pneumococcal polysaccharide vaccines only.

Agency Stated Authority: Iowa Code sections 155A.13, 155A.15, 155A.23, and 155A.35.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

ARC 2064C

Rule Summary The proposed amendment rescinds a rule that classifies certain substances as imitation controlled substances. Those substances have been identified and classified by legislative action as controlled substances subject to Iowa Code chapter 124.

Agency Stated Authority: Iowa Code section 124A.2.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

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Department of Transportation

ARC 2049C

Rule Summary Rewrites confidential record rules and lists records that will be kept confidential. The rule states the list is not comprehensive. Clarifies technical language in the Public Record rules. Corrects references to addresses, citations, implementation statutes, and sentences. Requires that requests to keep information confidential demonstrate that disclosure of information will clearly not be in the public interest.

Agency Stated Authority: Iowa Code sections 305.15, 307.10, and 307.12.

Fiscal Impact **Agency Response:** No fiscal impact.

LSA Response: The LSA concurs.

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