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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Iowa Code Chapter 17A and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, regulatory flexibility analyses and agenda for monthly committee meetings.

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through~~ letters indicate deleted material.

The ARC number which appears before each agency heading is assigned by the Administrative Rules Coordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to Iowa Code section 17A.6. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules coordinator and published in the Bulletin.

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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 14, 1989	May 3, 1989
23	Friday, April 28, 1989	May 17, 1989
24	Friday, May 12, 1989	May 31, 1989

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

First quarter	July 1, 1988, to June 30, 1989	\$160.95 plus \$6.45 sales tax
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Fourth quarter	April 1, 1989, to June 30, 1989	\$ 40.70 plus \$1.63 sales tax

Single copies may be purchased for \$4.50 plus \$0.18 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplements are as follows:

Iowa Administrative Code - \$847.00 plus \$33.90 sales tax

(Price includes 16 volumes of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders can be purchased for \$3.30 plus \$0.13 tax.)

Iowa Administrative Code Supplement - \$255.20 plus \$10.21 sales tax

(Subscription expires June 30, 1989)

All checks should be made payable to the Iowa State Printing Division. Send all inquiries and subscription orders to:

Iowa State Printing Division
Grimes State Office Building
Des Moines, IA 50319
Phone: (515) 281-8796

Schedule for Rule Making 1989

FILING DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 6	Jan. 25	Feb. 14	Mar. 1	Mar. 22	Apr. 26	July 24
Jan. 20	Feb. 8	Feb. 28	Mar. 15	Apr. 5	May 10	Aug. 7
Feb. 3	Feb. 22	Mar. 14	Mar. 29	Apr. 19	May 24	Aug. 21
Feb. 17	Mar. 8	Mar. 28	Apr. 12	May 3	June 7	Sep. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	May 17	June 21	Sep. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	Aug. 9	Sep. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 23	Sep. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Sep. 6	Oct. 11	Jan. 8 '90
July 7	July 26	Aug. 15	Aug. 30	Sep. 20	Oct. 25	Jan. 22 '90
July 21	Aug. 9	Aug. 29	Sep. 13	Oct. 4	Nov. 8	Feb. 5 '90
Aug. 4	Aug. 23	Sep. 12	Sep. 27	Oct. 18	Nov. 22	Feb. 19 '90
Aug. 18	Sep. 6	Sep. 26	Oct. 11	Nov. 1	Dec. 6	Mar. 5 '90
Sep. 1	Sep. 20	Oct. 10	Oct. 25	Nov. 15	Dec. 20	Mar. 19 '90
Sep. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 29	Jan. 3 '90	Apr. 2 '90
Sep. 29	Oct. 18	Nov. 7	Nov. 22	Dec. 13	Jan. 17 '90	Apr. 16 '90
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 27	Jan. 31 '90	Apr. 30 '90
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Jan. 10 '90	Feb. 14 '90	May 14 '90
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '90	Jan. 24 '90	Feb. 28 '90	May 28 '90
Nov. 24	Dec. 13	Jan. 2 '90	Jan. 17 '90	Feb. 7 '90	Mar. 14 '90	June 11 '90
Dec. 8	Dec. 27	Jan. 16 '90	Jan. 31 '90	Feb. 21 '90	Mar. 28 '90	June 25 '90
Dec. 22	Jan. 10 '90	Jan. 30 '90	Feb. 14 '90	Mar. 7 '90	Apr. 11 '90	July 9 '90

20 days from the publication date is the **minimum** date for a public hearing or cutting off public comment.

35 days from the publication date is the **earliest** possible date for the agency to consider a noticed rule for adoption. It is the regular effective date for an adopted rule.

180 days See 17A.4(1)"b." If the agency does not adopt rules within this time frame, the Notice should be terminated.

NOTICE

Rules will not be accepted after 12 o'clock noon on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

UNIFORM RULES OF STATE AGENCY PROCEDURE

Governor Terry E. Branstad appointed a nine-member Task Force in the summer of 1985 to draft uniform rules of agency procedure.

On December 5, 1986, the Task Force presented a report to the Governor. The Governor has accepted the Task Force recommendations on agency procedure for rule making which have been printed at the front of the Iowa Administrative Code for adoption by state agencies. [Green Tab — Uniform Rules]

The Administrative Rules Review Committee will hold its regular statutory meeting Tuesday, May 9, 1989, 10 a.m. and Wednesday, May 10, 1989, 9 a.m. in Committee Room 22, State Capitol. The following rules will be reviewed:

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Driver education, amendments to ch 26 ARC 9814 4/19/89

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Professional Licensing and Regulation Division[193]

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Bulletin

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- OWI and implied consent, 620.1, 620.4(2)"e" **ARC 9795** 4/19/89

UTILITIES DIVISION[199]

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To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)"b" by allowing the opportunity for oral presentation (hearing) to be held at least twenty days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
CULTURAL AFFAIRS DEPARTMENT[221] Museum property, ch 7 IAB 4/5/89 ARC 9789	Auditorium State Historical Bldg. Des Moines, Iowa	April 27, 1989 7 p.m.
EDUCATION DEPARTMENT[281] Driver education, amendments to ch 26 IAB 4/19/89 ARC 9814 Extracurricular interscholastic competition, associate member school, 36.1, 36.3, 36.5, 36.14, 36.15 IAB 4/5/89 ARC 9768	Board Room Grimes State Office Bldg. Des Moines, Iowa Board Room Grimes State Office Bldg. Des Moines, Iowa	May 9, 1989 9 a.m. April 25, 1989 10 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567] General guidelines for determining cleanup actions and responsible parties, ch 133 IAB 3/22/89 ARC 9745	Community Hall 205 Main Street Council Bluffs, Iowa City Council Chambers 226 W. Fourth St. Davenport, Iowa Auditorium, Main Floor Wallace State Office Bldg. 900 East Grand Ave. Des Moines, Iowa	April 19, 1989 7:30 p.m. April 25, 1989 7:30 p.m. April 26, 1989 10 a.m.
HISTORICAL DIVISION[223] Agency procedure for rule making, petitions for rule making, declaratory rulings, conflict of interest, award category selection, programs and services, chs 4, 5, 6, 13, 14 IAB 4/5/89 ARC 9790 Membership program fee structure, 13.6(2) IAB 3/22/89 ARC 9748	Auditorium State Historical Bldg. Des Moines, Iowa Auditorium State Historical Bldg. Des Moines, Iowa	April 27, 1989 7 p.m. April 27, 1989 7 p.m.
HUMAN SERVICES DEPARTMENT[441] Model waiver services program, amendments to chs 54, 75, 77, 78, 79, 80, 81, 82, 83, 130, 150, 156, 177, 180, 202, 207 IAB 4/19/89 ARC 9810	Cedar Rapids District Office Conference Room — 6th Floor 221 4th Ave., S.E. Cedar Rapids, Iowa Council Bluffs District Office 417 E. Kanessville Blvd. Lower Level Council Bluffs, Iowa Davenport District Office Conference Room — 5th Floor 428 Western Ave. Davenport, Iowa Des Moines District Office City View Plaza Conference Room 100 1200 University Des Moines, Iowa	May 11, 1989 10 a.m. May 10, 1989 10 a.m. May 15, 1989 10 a.m. May 10, 1989 1 p.m.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

Mason City District Office
Mohawk Square
22 North Georgia Ave.
Mason City, Iowa

May 11, 1989
1 p.m.

Ottumwa District Office
First Floor Conference Room
226 West Main
Ottumwa, Iowa

May 10, 1989
10 a.m.

Sioux City District Office
Suite 624-625
507-7th Street
Sioux City, Iowa

May 11, 1989
1 p.m.

Waterloo District Office
Black Hawk County
Conference Room
2nd Floor — KWWL Bldg.
500 East 4th
Waterloo, Iowa

May 12, 1989
1 p.m.

LABOR SERVICES DIVISION[347]

Occupational safety
and health rules for
general industry, 10.20
IAB 4/5/89 ARC 9788

Division of Labor Services
1000 East Grand Ave.
Des Moines, Iowa

April 27, 1989
9 a.m.

NATURAL RESOURCE COMMISSION[571]

Private open space
lands, ch 32
IAB 4/5/89 ARC 9778

Conference Room
Fourth Floor West
Wallace State Office Bldg.
Des Moines, Iowa

April 26, 1989
10 a.m.

NURSING BOARD[655]

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practitioners, ch 7
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Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

May 17, 1989
7 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Hearing aid dealers, 120.212(8)"d"
IAB 4/19/89 ARC 9805
(See also IAB 3/8/89 ARC 9703)

Conference Room
Fourth Floor Side 1
Lucas State Office Bldg.
Des Moines, Iowa

May 26, 1989
1 to 3 p.m.

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Notification and surveillance
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1.2(1)"a," 1.9
IAB 4/5/89 ARC 9754

Conference Room
Third Floor
Lucas State Office Bldg.
Des Moines, Iowa

April 25, 1989
1 p.m.

Well elderly screening
clinics, ch 83
IAB 4/19/89 ARC 9806

Conference Room
Fourth Floor Side 1
Lucas State Office Bldg.
Des Moines, Iowa

May 10, 1989
1 p.m.

TRANSPORTATION DEPARTMENT[761]

Tourist-oriented directional signing, ch 119 IAB 3/22/89 ARC 9737	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	May 2, 1989
Recreational trails program, ch 165 IAB 2/8/89 ARC 9637	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	May 2, 1989
Improvements and maintenance on primary road extensions, 150.3(1)"e," 150.3(3)"a" IAB 4/5/89 ARC 9791	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	May 16, 1989

UTILITIES DIVISION[199]

Energy conservation strategies and programs, 19.9, 20.10 IAB 4/5/89 ARC 9771	First Floor Hearing Room Lucas State Office Bldg. Des Moines, Iowa	May 2, 1989 10 a.m.
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AGENCY IDENTIFICATION NUMBERS

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas”.

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in lowercase type at the left-hand margin, e.g., Beef Industry Council, Iowa [101].

Implementation of reorganization is continuing and the following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Agricultural Development Authority[25]
- Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

- Beef Industry Council, Iowa[101]

- Blind, Department For The[111]

CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]

CITIZENS' AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

- Alcoholic Beverages Division[185]
- Banking Division[187]
- Credit Union Division[189]
- Insurance Division[191]
- Professional Licensing and Regulation Division[193]
 - Accountancy Examining Board[193A]
 - Architectural Examining Board[193B]
 - Engineering and Land Surveying Examining Board[193C]
 - Landscape Architectural Examining Board[193D]
 - Real Estate Commission[193E]
- Savings and Loan Division[197]
- Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

- Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

- Historical Division[223]
- Library Division[224]
- Public Broadcasting Division[225]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

- City Development Board[263]
- Iowa Finance Authority[265]
- High Technology Council[267]

EDUCATION DEPARTMENT[281]

- College Aid Commission[283]
- Higher Education Loan Authority[284]
- Iowa Advance Funding Authority[285]
- Professional Teaching Practices Commission[287]
- School Budget Review Committee[289]

- Egg Council[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPLOYMENT SERVICES DEPARTMENT[341]

- Industrial Services Division[343]
- Job Service Division[345]
- Labor Services Division[347]

EXECUTIVE COUNCIL[361]

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GENERAL SERVICES DEPARTMENT[401]

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HUMAN RIGHTS DEPARTMENT[421]
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INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Division[491]

LAW ENFORCEMENT ACADEMY[501]
Livestock Health Advisory Council[521]

MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
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NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board[575]

PERSONNEL DEPARTMENT[581]

PUBLIC DEFENSE DEPARTMENT[601]

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

PUBLIC HEALTH DEPARTMENT[641]
Substance Abuse Commission[643]
Professional Licensure Division[645]
Dental Examiners[650]
Medical Examiners[653]
Nursing Board[655]
Pharmacy Examiners[657]

PUBLIC SAFETY DEPARTMENT[661]

REGENTS BOARD[681]
Archaeologist[685]

REVENUE AND FINANCE DEPARTMENT[701]
Lottery Division[705]

SECRETARY OF STATE[721]
Sheep and Wool Promotion Board, Iowa[741]

TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority, Iowa[765]

TREASURER OF STATE[781]
Uniform State Laws Commission[791]
Veterinary Medicine Board[811]
Voter Registration Commission[821]

ARC 9814

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa Department of Education hereby adopts the following amendments to Chapter 26, "Driver Education," Iowa Administrative Code.

Subrule 26.1(2) is amended to comply with subrule 73.21(6) concerning minimum hours and course work for a teaching endorsement in driver and safety education.

Subrule 26.1(3) is deleted since Iowa Code chapter 321 contains provisions applicable to driver licensing requirements for both instructors and students.

Subrule 26.1(4) is deleted in its entirety. This provision is not needed because a satisfactory driving record is a requirement for possessing a valid driver's license.

Subrule 26.1(5) is deleted in its entirety. Decisions as to the physical and mental fitness of an individual to provide driver education instruction are left to the board of directors of the employing school district.

Rule 26.2 catchwords are changed to "Course standards" to include items in addition to "time."

Subrule 26.2(1) is amended to state references for minimum instructional time in minutes.

Subrule 26.2(2) is amended to provide clarification of the evaluative provisions used in approving driver education programs.

Subrule 26.2(3) is amended by deleting the guidelines for scheduling class sessions and by rewriting the subrule to provide a waiver of the requirements for behind-the-wheel, on-street driving:

Subrule 26.2(4) is deleted because it is considered unnecessary.

Rule 26.3 is deleted because changes in other subrules make provisions for courses identical regardless of when offered, thus negating the need for special provisions for summer school courses.

Rule 26.4 is amended to clarify the conversion of simulator driving time to actual behind-the-wheel driving.

Rule 26.5 is amended to eliminate the requirement for approval of driving ranges and to establish a time ratio conversion between range and on-street driving.

Rule 26.6 is deleted since it is an unnecessary requirement.

Subrule 26.7(1) is amended to define the specific dual controls and equipment needed on a driver education vehicle.

Subrule 26.7(2) is deleted since it is an unnecessary recommendation.

Rule 26.8 is deleted as an unnecessary requirement.

Rule 26.9 is amended to more accurately express the responsibility factor of both teachers and students.

Rule 26.10 is deleted since attendance records are no longer needed to determine state aid.

Interested persons may submit written comments on these proposed rules prior to May 9, 1989. Comments should be directed to Robert Roush, Consultant, Bureau

of Instruction and Curriculum, at (515)281-4746 or in the bureau office on the third floor of the Grimes State Office Building at East 14th Street and Grand Avenue, Des Moines.

A public hearing on the proposed rules is scheduled for May 9, 1989, at 9 a.m. in the State Board Room on the second floor of the Grimes State Office Building at the above address.

These rules are intended to implement Iowa Code section 321.178.

The following amendments are proposed:

ITEM 1. Amend subrule 26.1(2) as follows:

26.1(2) To be approved the instructor must have ~~ten~~ **15** semester hours in the field of safety education ~~including two semester hours in actual behind-the-wheel driving which includes accident prevention, vehicle safety and behind-the-wheel driving.~~

ITEM 2. Rescind subrules **26.1(3)**, **26.1(4)**, and **26.1(5)**.

ITEM 3. Amend rule 281—26.2(256) as follows:

281—26.2 (256) Time Course standards.

26.2(1) Minimum time. Schools shall provide for each student ~~an absolute~~ a minimum of ~~30~~ **30** class hours of ~~60~~ **60** minutes each ~~(or a total of 1800 minutes)~~ in classroom instruction, plus ~~6~~ **6** class hours of ~~60~~ **60** minutes each ~~(or a total of 360 minutes)~~ in supervised laboratory instruction, exclusive of observation time, in a dual control automobile. *The driver education course shall be scheduled for a minimum of 30 instructional days.*

Further amend 281—26.2(256) by rescinding subrules **26.2(2)**, **26.2(3)**, and **26.2(4)** and inserting the following:

26.2(2) An approved driver education course shall include the following provisions:

a. Each student shall be scheduled to receive classroom and laboratory instruction each week of the course.

b. A minimum of 120 minutes of substance abuse education will be included in classroom instruction.

c. Classroom instruction shall be limited to a maximum of 120 minutes per student in a single day.

d. Behind-the-wheel instruction shall be limited to a maximum of 30 minutes per student per session and a maximum 60 minutes in a single day.

e. Two or more students shall be scheduled for all behind-the-wheel instruction to ensure that appropriate observation time is experienced.

f. Approval of courses by the department of education must be obtained prior to the beginning of a course. Application forms are provided by the department.

26.2(3) Waiver provision. A maximum of 180 minutes of behind-the-wheel, on-street driving may be waived upon written request of a parent or guardian and demonstrated student competency approved by the driver education teacher.

ITEM 4. Rescind rule 281—26.3(256) and renumber rules 281—26.4(256) and 281—26.5(256) as 281—26.3(256) and 281—26.4(256), respectively.

ITEM 5. Amend renumbered rule 281—26.3(256) as follows:

281—26.3(256) Time on driving simulators. When simulators are used for part of the ~~practice behind-the-wheel~~ driving experiences, four hours of simulator experience shall be considered equal to one hour of ~~practice behind-the-wheel~~ driving in the car. ~~Not more than three of the six hours required for practice driving may be simulator experience. However, in addition to~~

EDUCATION DEPARTMENT[281] (cont'd)

simulator time, a minimum of three hours of on-street, behind-the-wheel driving must be attained.

ITEM 6. Amend renumbered rule 281—26.4(256) as follows:

281—26.4(256) Driving ranges. *Special permission for programs on multiple-vehicle driving ranges must be secured from the department of education. When driving ranges are used in driver education courses, two hours of range experience shall be considered equal to one hour of on-street, behind-the-wheel driving. However, in addition to range time, a minimum of three hours of on-street, behind-the-wheel driving must be attained.*

ITEM 7. Rescind rules 281—26.6(256) to 281—26.10(256) and insert the following:

281—26.5(256) Dual controlled cars. Motor vehicles which are designed primarily for carrying nine or fewer occupants, excluding motorcycles and mopeds, are the only motor vehicles approved for use in driver education courses and shall be equipped with dual controls. This shall include brake controls for vehicles equipped with automatic transmissions; brake and clutch controls for vehicles equipped with standard transmissions. In addition, all driver education vehicles shall have an inside rear view mirror and an outside rear view mirror mounted on each side of the vehicle.

281—26.6(256) Instruction permit. The driver education teacher shall verify at the beginning of each course that each student possesses a valid instruction permit or driver's license. Each student must be responsible for possessing an instruction permit or driver's license throughout all laboratory instruction and report any suspension or revocation to the driver education teacher prior to attending laboratory instruction.

ITEM 8. Renumber rules 281—26.11(256) to 281—26.13(256) as 281—26.7(256) to 281—26.9(256), respectively.

ARC 9810**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 217.6, 234.6, and 249A.4, the Department of Human Services proposes to amend Chapter 54, "Facility Participation"; Chapter 75, "Conditions of Eligibility"; Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care"; Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services"; Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care"; Chapter 80, "Procedure and Method of Payment"; Chapter 81, "Intermediate Care Facilities"; Chapter 82, "Intermediate Care Facilities for the Men-

tally Retarded"; Chapter 83, "Title XIX Waiver Services"; Chapter 130, "General Provisions"; Chapter 150, "Purchase of Service"; Chapter 156, "Payments for Foster Care and Foster Parent Training"; Chapter 177, "In-Home Health Related Care"; Chapter 180, "Homemaker Services"; Chapter 202, "Foster Care Services"; and Chapter 207, "Residential Services for Adults," appearing in the Iowa Administrative Code.

The Model Waiver Services program became effective October 1, 1984, to assist persons requiring the level of care provided in a skilled nursing facility, intermediate care facility, or intermediate care facility for the mentally retarded to remain at home. The Model Waiver was written to provide services to blind and disabled persons who meet the income and resource limitations for Supplemental Security Income (SSI) except for the deeming of income and resources from a parent(s) or spouse or whose income exceeds SSI limitations but does not exceed 300 percent of the maximum monthly payment for one person under SSI.

There are currently 65 children and 9 adults receiving Model Waiver services. There are 71 cases pending. Originally model waivers were limited by federal law to 50 clients. Federal law changed the limit to 200 clients and Iowa followed suit on June 1, 1988.

These rules make the following changes in administration of the Model Waiver program in addition to combining the rules for financial eligibility and need for services into one chapter:

1. Currently model waiver service providers are paid through the purchase of service system. Under these rules model waiver service providers become Medicaid vendors and claims will be processed through the Medicaid fiscal agent, Unisys. This will facilitate both provider enrollment and claims payment. This will also make it easier to track Medicaid expenses and to prepare federal reports documenting cost effectiveness.

2. The number of days available for respite care is lowered from 36 days per year to 30 days per year based on a federal directive.

3. The upper limit for the cost of homemaker services per hour remains at \$15 per hour. However, a limit of a total charge of \$1,500 per month is established. Previously there was no limit.

4. A limit of \$15 per hour for an aide and \$45 per hour for a nurse providing home health aide services is established. The limit for home health aide services is increased from \$353.91 per month to \$1000 per month based on comments from persons on the program that the previous limit was not sufficient.

5. A limit of \$30 per day for adult day care is established and a day is defined as six hours or more.

6. A limit of \$55 per day for residential habilitation services is established and a day is defined as six hours or more.

7. In-home respite care of eight hours per day is allowed to be provided by home health aides with a maximum charge of \$100 per day.

Consideration will be given to all written data, views, or arguments about these or other options received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before May 10, 1989.

Oral presentations may be made by appearing at the following meetings. Written comments will also be accepted at that time.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

- Cedar Rapids - May 11, 1989 10 a.m.
Cedar Rapids District Office
Conference Room - 6th Floor
221 4th Avenue, S.E.
Cedar Rapids, Iowa 52401
- Council Bluffs - May 10, 1989 10 a.m.
Council Bluffs District Office, Lower Level
417 E. Kanessville Boulevard
Council Bluffs, Iowa 51501
- Davenport - May 15, 1989 10 a.m.
Davenport District Office
Fifth Floor Conference Room
428 Western
Davenport, Iowa 52801
- Des Moines - May 10, 1989 1 p.m.
Des Moines District Office
City View Plaza, Conference Room 100
1200 University
Des Moines, Iowa 50314
- Mason City - May 11, 1989 1 p.m.
Mason City District Office
Mohawk Square
22 North Georgia Avenue
Mason City, Iowa 50401
- Ottumwa - May 10, 1989 10 a.m.
Ottumwa District Office
Fifth Floor Conference Room
226 West Main
Ottumwa, Iowa 52501
- Sioux City - May 11, 1989 1 p.m.
Sioux City District Office
Suite 624-625
507 7th Street
Sioux City, Iowa 51101
- Waterloo - May 12, 1989 1 p.m.
Waterloo District Office
Black Hawk County Conference Room A
2nd Floor - KWWL Building
500 East 4th
Waterloo, Iowa 50701

These rules are intended to implement Iowa Code section 249A.4 and 1984 Iowa Acts, chapter 1310, section 3.

The following amendments are proposed:

ITEM 1. Rescind and reserve rule 441—54.9(249A).

ITEM 2. Amend subrule 75.1(18) as follows:

75.1(18) Individuals Persons eligible for Title XIX waiver services. ~~Medical Assistance Medicaid~~ shall be available to recipients of Title XIX waiver services as defined in 441—Chapter 83.

ITEM 3. Amend 441—Chapter 77 by adding the following new rule:

441—77.30(249A) Model waiver service providers. The following model waiver service providers shall be eligible to participate in the Medicaid program provided that they meet the standards set forth below:

77.30(1) Homemaker providers. Homemaker providers shall be agencies which meet the standards and requirements set forth in department of public health rules 641—80.3(135), 641—80.4(135) and 641—80.5(135) or which are certified as a home health agency under Medicare or Medicaid.

77.30(2) Home health aide providers. Home health aide providers shall be certified to participate in the Medicare program.

77.30(3) Adult day care providers. Adult day care providers shall meet the standards set forth in rule 441—171.5(234) and shall have a purchase of service contract.

77.30(4) Residential habilitation providers. Residential habilitation providers shall meet the requirements set forth in 441—Chapter 116 or 441—207.4(234) and shall have a purchase of service contract.

77.30(5) Respite care providers. The following providers may provide respite care:

a. Home health aide providers meeting the conditions of participation set forth in 77.30(2) above.

b. Residential habilitation providers meeting the conditions of participation set forth in 77.30(4) above.

c. Intermediate care facilities, intermediate care facilities for the mentally retarded, skilled nursing homes and hospitals certified to participate in the Medicaid program.

d. Child foster care facilities licensed by the department according to 441—Chapters 112 to 116.

ITEM 4. Amend 441—Chapter 78 by rescinding and reserving subrule 78.3(17) and by adding the following new rule:

441—78.34(249A) Model waiver services. Payment will be approved for the following services to clients eligible for model waiver services as established in 441—Chapter 83. Services must be provided in whole units.

78.34(1) Homemaker services. Homemaker services are those services provided when the client lives alone or when the person who usually performs these functions for the client is incapacitated or occupied providing direct care to the client. A unit of service is one hour. Components of the service include:

a. Essential shopping; shopping for basic need items such as food, clothing or personal care items, or drugs.

b. Limited housecleaning; maintenance cleaning such as vacuuming, dusting, scrubbing floors, defrosting refrigerators, cleaning stoves, and washing and mending clothes.

c. Accompaniment to medical or psychiatric services or to school.

d. Meal preparation; planning and preparing balanced meals.

78.34(2) Home health aide services. Home health aide services are personal or direct care services provided to the client which are not payable under Medicaid as set forth in rule 441—78.9(249A). A unit of service is one hour. Components of the service include but are not limited to:

a. Observation and reporting of physical or emotional needs.

b. Helping a client with bath, shampoo, or oral hygiene.

c. Helping a client with toileting.

d. Helping a client in and out of bed and with ambulation.

e. Helping a client reestablish activities of daily living.

f. Assisting with oral medications ordered by the physician which are ordinarily self-administered.

g. Performing incidental household services which are essential to the client's health care at home and are necessary to prevent or postpone institutionalization in order to complete a full unit of service.

In some cases, a nurse may provide home health aide care if the health of the client is such that the agency

HUMAN SERVICES DEPARTMENT[441] (cont'd)

is unable to place an aide in that situation due to limitations by state law or in the event that the agency's Medicare certification requirements prohibit the aide from providing the service. It is not permitted for the convenience of the provider.

h. Skilled nursing care is not covered.

78.34(3) Adult day care services. Adult day care services are a program of adult care during the day in an adult day care center. A unit of service is one day. One day is six hours or more. Components of the service are set forth in 441-171.6(234).

78.34(4) Residential habilitation services. Residential habilitation services are a program of adult or child care during the day for a client residing in a home setting. Services may be provided at the facility of the residential habilitation provider or in the client's home if the cost of care does not exceed the cost of care at the facility. Services do not include prevocational, educational or supported employment services or services associated with room and board. A unit of service is one day. One day is six hours or more. Components of the service are set forth in subrule 114.8(3) and 441-116.4(237) or subrule 207.3(2).

78.34(5) Respite care services. Respite care services are temporary care to a client to provide relief to the usual informal care giver.

a. If the respite care is provided in the client's home, only the cost of care is reimbursed.

b. If the respite care is provided outside of the client's home, charges may include room and board.

c. A unit of service is either one 24-hour day for out-of-home respite care or one eight-hour day for in-home respite.

d. The maximum units of care in each 12-month period beginning with the first use of the service is 30 units.

ITEM 5. Amend subrule 79.1(2) by adding the following new provider category in alphabetical order:

Provider category	Basis of reimbursement	Upper limit
Model Waiver service providers, including:		
1. Homemakers	Fee schedule	\$15 per hour to a total of \$1500 per month
2. Home health aides	Fee schedule	\$15 per hour for aide \$45 per hour for nurse to a total of \$1000 per month
3. Adult day care	Prospective reimbursement	P.O.S. contract rate or \$30 per day if no P.O.S. contract
4. Residential habilitation	Prospective reimbursement	P.O.S. contract rate or \$55 per day if no P.O.S. contract
5. Respite care providers, including:		
(Home health aide)	Fee schedule	\$100 per day

(Residential care facility)	Prospective reimbursement or flat rate	\$17.80 for prospective reimbursement or \$12.72 for flat plus P.O.S. contract rate for services to a maximum of \$55 per day
(Institutional - hospital, skilled nursing care, intermediate care facility, intermediate care facility for the mentally retarded)	Prospective reimbursement	Limit for level of care except hospitals or SNF providing care to ICF/MR clients shall receive SNF rate
(Foster group care)	Prospective reimbursement	P.O.S. contract rate to a maximum of \$68.13 per day
(Foster family home)	Fee schedule	Emergency care rate (See 156.11(2))

ITEM 6. Amend subrule 80.2(2) by adding the following new paragraph:

ee. Model waiver service providers shall submit claims on Form AA-2246, Model Waiver Provider Invoice except for hospitals and skilled nursing facilities providing respite care, which shall submit their claims on Form UB-82-HCFA-1450.

ITEM 7. Rescind and reserve subrules 81.13(29) and 82.2(45).

ITEM 8. Rescind 441-Chapter 83 and insert the following in lieu thereof:

CHAPTER 83

MEDICAID WAIVER SERVICES

PREAMBLE

Medicaid waiver services are services provided to maintain persons in their own homes or communities who would otherwise require care in medical institutions. Provision of these services must be cost effective. Services are limited to certain client groups for whom a federal waiver has been requested and approved. Services provided by the waivers are not available to other Medicaid recipients as they are beyond the scope of the Medicaid state plan.

DIVISION I - MODEL WAIVER SERVICES

441-83.1(249A) Definitions.

"Blind individual" means an individual who has a central visual acuity of 20/200 or less in the better eye with the use of corrective lens or visual field restriction to 20 degrees or less.

"Client participation" means the amount of the recipient income that the person must contribute to the cost of model waiver services exclusive of medical vendor payments before Medicaid will participate.

"Deeming" means the specified amount of parental or spousal income and resources considered in determining eligibility for a child or spouse according to current supplemental security income guidelines.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

"Disabled person" means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or is expected to last for a continuous period of not less than 12 months. A child under the age of 18 is considered disabled if the child suffers a medically determinable physical or mental impairment of comparable severity.

"Intradepartmental board for supplemental security income deeming determination" means the board which has the authority under part 416 of Title 20 of the Code of Federal Regulations to grant exceptions to supplemental security income deeming rules on a case-by-case basis.

"Medical institution" means an intermediate care facility, skilled nursing facility or intermediate care facility for mentally retarded which has been approved as a Medicaid vendor.

"Substantial gainful activity" means productive activities which add to the economic wealth, or produce goods or services to which the public attaches a monetary value.

"Third-party payments" means payments from an attorney, individual, institution, corporation, or public or private agency which is liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant or a past or present recipient of medical assistance.

441—83.2(249A) Eligibility. To be eligible for model waiver services a person must meet certain eligibility criteria and be determined to need a service(s) allowable under the program.

83.2(1) Eligibility criteria.

a. The person must be determined to be blind or disabled as determined by the receipt of social security disability benefits, or a disability determination made through the bureau of medical services. Disability determinations are made according to supplemental security income guidelines as per Title XVI of the Social Security Act.

b. The person must be ineligible for medical assistance under other Medicaid programs or coverage groups, with the exception of the medically needy program and the cases approved by the intradepartmental board for supplemental security income deeming determinations.

c. Persons shall meet the eligibility requirements of the supplemental security income program except for the following:

(1) The person is under 18 years of age, unmarried and not the head of a household and is ineligible for supplemental security income because of the deeming of the parent's(s) income and resources.

(2) The person is married and is ineligible for supplemental security income because of the deeming of the spouse's income or resources.

(3) The person is ineligible for supplemental security income due to excess income and the person's income does not exceed 300 percent of the maximum monthly payment for one person under supplemental security income.

d. The person must be certified as being in need of care in an intermediate care facility, intermediate care facility for the mentally retarded or skilled nursing facility. The Iowa foundation for medical care shall be responsible for approval of the certification of the level of care.

Model waiver services will not be provided when the individual is an inpatient in a medical institution.

e. The person must be within the first 200 names on a log to be maintained by the bureau of medical services. The model waiver is limited to 200 persons at any one time. The local office shall contact the bureau of medical services by the end of the second workday after the receipt of an Application for Model Waiver, Form MA-3033. On the third workday after the receipt of the Application for Model Waiver, persons will be entered on the log by the bureau of medical services according to the following:

(1) Persons shall be entered on the log on the basis of the date a completed Form PA-1107, Application for Medical Assistance or State Supplementary Assistance is date-stamped in the local office. Persons who have a pending application with the intradepartmental board for supplemental security income deeming determination shall be entered on the log first. In the event that more than one application is received at one time, persons shall be entered on the log on the basis of the day of the month of their birthday, lowest number being first on the log. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

(2) Persons who do not fall within the top 200 names shall have their application rejected but their names shall be maintained on the log. As slots become open, persons will be selected from the log to maintain 200 persons on the program based on their order on the log.

83.2(2) Need for services.

a. The local social worker shall perform an assessment of the person's needs and determine the availability and appropriateness of services. Persons determined to need the intermediate care facility for the mentally retarded level of care shall be referred to an appropriate agency for a diagnosis and evaluation if the person does not have a current treatment plan.

b. The total monthly cost of model waiver services shall not exceed the cost of the recipient's level of care provided in a skilled nursing facility (SNF), intermediate care facility (ICF), or intermediate care facility for the mentally retarded (ICF/MR). Individual service costs which make up the total monthly cost of model waiver services cannot exceed established limits.

Aggregate monthly costs are limited as follows:

<u>SNF</u>	<u>ICF</u>	<u>ICF/MR</u>
\$2,480	\$852	\$3,019

441—83.3(249A) Application.

83.3(1) Application for financial eligibility. Application for financial eligibility shall be made by completing the Application for Medical Assistance or State Supplementary Assistance, Form PA-1107-0. The application process as specified in rules 441—76.1(249A) to 441—76.6(249A) shall be followed. Persons who have been placed on the waiting list shall complete a new application at the time their names come up on the waiting list.

83.3(2) Application for services. Application for services shall be made by completing Form SS-1120-0, Application for Social Services.

83.3(3) Approval of application.

a. Applications for the model waiver program shall be processed in 30 days unless the worker can document difficulty in locating and arranging services. In these cases a decision shall be made as soon as possible.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

b. Decisions shall be mailed or given to the applicant on the date when both service and income maintenance eligibility determinations are completed.

c. A client must be given the choice between model waiver services and institutional care. The service worker shall have the client or guardian complete and sign Part C of Form 470-0660, Model Waiver Service Report, indicating the client's choice of care giver.

83.3(4) Effective date of eligibility.

a. Deeming of parental income and resources ceases and eligibility shall be effective with the month following the month in which a person requires care in a medical institution.

b. Deeming of spousal income and resources ceases and eligibility shall be effective the month following the month in which a person requires care in a medical institution.

c. Eligibility for persons covered under subrule 83.2(1)"c"(3) shall exist after the persons require care in a medical institution for a full calendar month and shall be effective no earlier than the first day of that full calendar month.

d. Eligibility continues until the recipient has been in a medical institution for 30 consecutive days for other than respite care. Recipients who are inpatients in a medical institution for 30 or more consecutive days for other than respite care shall be reviewed for eligibility for other Medicaid coverage groups and terminated from model waiver services if found eligible under another coverage group. The recipient will be notified of that decision through Form SS-1104-0, Notice of Decision. If the client returns home before the effective date of the notice of decision and the person's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

441—83.4(249A) Client participation. Persons must contribute their predetermined client participation to the cost of model waiver services.

83.4(1) Computation of client participation. Client participation shall be computed by deducting the following from the client's total income:

a. A single recipient shall be allowed the current supplemental security income standard for a recipient in the recipient's own home.

b. If need exists, an amount shall be diverted from the recipient's income for the maintenance needs of the spouse and the dependent child(ren) of the recipient at home, not to exceed the following amounts:

(1) For the maintenance needs of the spouse only, an amount which, when combined with the spouse's own income, equals the supplemental security income federal benefit rate for a couple in their own home.

(2) For the maintenance needs of a spouse and dependent child(ren) an amount which, when combined with the income of the spouse and dependent child(ren), equals the current schedule of living costs for a family of the same size in the aid to dependent children program.

(3) No diversion from the recipient's income shall be made for maintenance needs of a spouse or dependents who are receiving supplemental security income, state supplementary assistance or aid to dependent children.

c. There shall be deducted from the person's available income, amounts for incurred expenses for the person's medical or remedial care which are not subject to payment by a third party, and necessary medical or remedial care which is recognized under state law, but not covered

by Medicaid. Medicare and individual or family health insurance premiums, excluding premiums for indemnity or income policies, shall be deducted.

83.4(2) Limitation on payment. If the sum of the third-party payment and client participation equals or exceeds the reimbursement established by the service worker, Medicaid will make no payments for model waiver service providers. However, Medicaid will make payments to other medical vendors.

441—83.5(249A) Redetermination. A complete redetermination of eligibility for model waiver services shall be done at least once every 12 months.

A redetermination of continuing eligibility factors shall be made when a change in circumstances occurs that affects eligibility in accordance with rule 441—83.2(249A). A redetermination shall contain the components listed in rule 441—83.7(249A).

441—83.6(249A) Allowable services. Services allowable under the model waiver are homemaker services, home health aide services, adult day care services, residential habilitation services, and respite care services, as set forth in rule 441—78.34(249A).

441—83.7(249A) Case plan. A case plan shall be prepared for model waiver clients in accordance with rule 441—130.7(234). In addition, the case plan shall include a certification by the physician that the waiver services are appropriate and adequate to meet the needs of the client in a home environment, the frequency of the model waiver services, and the types of providers who will deliver the services.

441—83.8(249A) Adverse service actions.

83.8(1) Denial. An application for services shall be denied when it is determined by the department that:

a. The client is not eligible for or in need of services.

b. Except for respite care, the model waiver services are not needed on a regular basis.

c. Service needs exceed the aggregate monthly costs established in 83.2(2)"b," or are not met by the services provided.

d. Needed services are not available or received from qualifying providers.

83.8(2) Termination. A particular service may be terminated when the department determines that:

(1) The provisions of 130.5(2), "a," "b," "c," "g," or "h" apply.

(2) The costs of the model waiver service for the person exceed the aggregate monthly costs established in 83.2(2)"b."

(3) The client receives care in a hospital, skilled nursing facility, intermediate care facility, or intermediate care facility for the mentally retarded for 30 days in any one stay for purposes other than respite care.

(4) The client receives model waiver services and the physical or mental condition of the client requires more care than can be provided in the client's own home as determined by the service worker.

(5) Service providers are no longer available.

83.8(3) Reduction of services shall apply as in subrule 130.5(3), paragraphs "a" and "b."

441—83.9(249A) Appeal rights. Notice of adverse action and right to appeal shall be given in accordance with 441—Chapter 7 and rule 441—130.5(234). The applicant or recipient is entitled to appeal the level of care determination to the Iowa foundation for medical

HUMAN SERVICES DEPARTMENT[441] (cont'd)

care by sending a letter requesting an appeal to the foundation.

441—83.10(249A) County reimbursement. The county board of supervisors shall reimburse the department for the state portion of the cost of model waiver services to mentally retarded or mentally ill persons with legal settlement in the county. The county shall enter into a Model Waiver Payment Agreement, Form MA-2171 with the department for reimbursement of services provided to mentally ill and mentally retarded persons.

These rules are intended to implement 1984 Iowa Acts, chapter 1310, section 3, and Iowa Code chapter 249A.

ITEM 9. Rescind and reserve subrules **130.2(6); 130.3(4); 130.5(1)**, paragraph "h"; **130.5(2)**, paragraphs "j" to "m"; and **130.7(2)**, paragraph "h."

ITEM 10. Amend rule **441—150.3(234)** as follows:

Amend the introductory paragraph of subrule 150.3(4) as follows and rescind and reserve paragraph "c."

150.3(4) Establishment of rates. The Financial and Statistical Report for Purchase of Service Contracts, Form SS-1703-0, is the basis for establishing the rates to be paid to all providers except out-of-state foster care providers, day care centers with six or fewer departmental clients, and some homemaker and in-home health-related providers.

Amend subrule 150.3(8), introductory paragraph, as follows:

150.3(8) Billing procedures. At the end of each month the provider agency shall prepare Form AA-2241-0, Purchase of Service Provider Invoice, for contractual services provided by the agency during the month. ~~If the services were provided under the Medicaid waiver, the provider agency shall prepare Form AA-2246, Title XIX Home and Community Based Purchase of Service Provider Invoice.~~

ITEM 11. Rescind and reserve subrule **156.6(3)**.

ITEM 12. Rescind and reserve subrule **177.5(5)** and rule **441—177.12(249A)**.

ITEM 13. Rescind and reserve **441—Chapter 180**.

ITEM 14. Rescind and reserve subrule **202.2(6)**.

ITEM 15. Amend **441—Chapter 207**, preamble, by deleting the last paragraph.

ITEM 16. Amend rule **441—207.1(234)** by deleting the definition of "Title XIX waiver services."

ARC 9799**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 57, "Residential Care Facilities"; Chapter 58,

"Intermediate Care Facilities"; Chapter 59, "Skilled Nursing Facilities"; Chapter 62, "Residential Care Facilities for Persons with Mental Illness (RCF/PMI)"; Chapter 63, "Residential Care Facilities for the Mentally Retarded"; and Chapter 64, "Intermediate Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The proposed amendment to six subrules is a reflection of action taken by the Center for Disease Control in relation to when universal precautions must be used when an employee has contact with body fluids. Before this clarification the term "body fluids" was all inclusive. This amendment states that universal precautions (gloves, masks, gowns and goggles) need not be used when contact is with feces, nasal secretions, sputum, sweat, tears, urine, or vomitus unless they contain visible blood.

Written comment will be considered by the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, if it is received by May 10, 1989.

The proposed amendment is intended to implement Iowa Code sections 135C.14(3), 135C.14(5), and 135C.14(8).

The following amendments are proposed:

ITEM 1. Amend subrule **57.11(11)**, paragraph "b," by adding the following paragraph:

Body fluids which require using universal precautions include blood, semen, vaginal secretions, cerebrospinal fluid (CFS), synovial fluid, peritoneal fluid, pericardial fluid, and amniotic fluid. Body fluids and wastes which do not require using universal precautions include feces, nasal secretions, sputum, sweat, tears, urine, or vomitus, unless they contain visible blood.

ITEM 2. Amend subrule **58.10(8)**, paragraph "b," by adding the following paragraph:

Body fluids which require using universal precautions include blood, semen, vaginal secretions, cerebrospinal fluid (CFS), synovial fluid, peritoneal fluid, pericardial fluid, and amniotic fluid. Body fluids and wastes which do not require using universal precautions include feces, nasal secretions, sputum, sweat, tears, urine, or vomitus, unless they contain visible blood.

ITEM 3. Amend subrule **59.12(11)**, paragraph "b," by adding the following paragraph:

Body fluids which require using universal precautions include blood, semen, vaginal secretions, cerebrospinal fluid (CFS), synovial fluid, peritoneal fluid, pericardial fluid, and amniotic fluid. Body fluids and wastes which do not require using universal precautions include feces, nasal secretions, sputum, sweat, tears, urine, or vomitus, unless they contain visible blood.

ITEM 4. Amend subrule **62.19(4)**, paragraph "b," by adding the following paragraph:

Body fluids which require using universal precautions include blood, semen, vaginal secretions, cerebrospinal fluid (CFS), synovial fluid, peritoneal fluid, pericardial fluid, and amniotic fluid. Body fluids and wastes which do not require using universal precautions include feces, nasal secretions, sputum, sweat, tears, urine, or vomitus, unless they contain visible blood.

ITEM 5. Amend subrule **63.9(10)**, paragraph "b," by adding the following unnumbered paragraph:

Body fluids which require using universal precautions include blood, semen, vaginal secretions, cerebrospinal fluid (CFS), synovial fluid, peritoneal fluid, pericardial

INSPECTIONS AND APPEALS DEPARTMENT[481] (cont'd)

fluid, and amniotic fluid. Body fluids and wastes which do not require using universal precautions include feces, nasal secretions, sputum, sweat, tears, urine, or vomitus, unless they contain visible blood.

ITEM 6. Amend subrule 64.12(14), paragraph "b," by adding the following paragraph:

Body fluids which require using universal precautions include blood, semen, vaginal secretions, cerebrospinal fluid (CSF), synovial fluid, peritoneal fluid, pericardial fluid, and amniotic fluid. Body fluids and wastes which do not require using universal precautions include feces, nasal secretions, sputum, sweat, tears, urine, or vomitus, unless they contain visible blood.

This amendment is intended to implement Iowa Code sections 135C.14(3), 135C.14(5), and 135C.14(8).

of Intended Action to amend Chapter 180, "Board of Optometry Examiners," Iowa Administrative Code.

The proposed change will increase the license renewal fee from \$100 to \$120.

Any interested person may make written comments on the proposed amendment no later than May 9, 1989, addressed to Susan Osmann, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed rule is intended to implement Iowa Code section 147.80.

The following amendment is proposed:

Amend subrule 180.10(2) to read as follows:

180.10(2) Renewal of license to practice optometry for a biennial period is \$100. *Beginning with July 1, 1990-1992 renewals, this fee is \$120.*

ARC 9805**PROFESSIONAL LICENSURE
DIVISION[645]**

BOARD OF EXAMINERS FOR LICENSING AND
REGULATION OF HEARING AID DEALERS

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 154A.4, the Board of Examiners for Licensing and Regulation of Hearing Aid Dealers hereby amends its Notice of Intended Action relating to Chapter 120, Iowa Administrative Code, published in the Iowa Administrative Bulletin March 8, 1989, as **ARC 9703**.

The purpose of this Amended Notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference, and to announce a public hearing.

Interested parties may present written comments on the proposed amendments not later than 3 p.m., May 26, 1989, to Carol J. Barnhill, Board Administrator, Board of Examiners for Hearing Aid Dealers, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

A public hearing will be held on Friday, May 26, 1989, from 1 p.m. to 3 p.m. in the Fourth Floor Conference Room, Side 1, of the Lucas State Office Building.

Persons commenting at the hearing are encouraged to bring written copies of their comments.

ARC 9808**PROFESSIONAL LICENSURE
DIVISION[645]**

BOARD OF OPTOMETRY EXAMINERS

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 258A.3, the Board of Optometry Examiners hereby gives Notice

ARC 9807**PROFESSIONAL LICENSURE
DIVISION[645]**

BOARD OF PODIATRY EXAMINERS

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 258A.3, the Board of Podiatry Examiners hereby gives Notice of Intended Action to amend Chapter 220, "Podiatry Examiners," Iowa Administrative Code.

The proposed changes make extensive revisions to licensure rules. The changes clarify licensure and examination requirements, fees, and continuing education requirements and procedures. The changes also clarify investigations, hearings, settlement procedures, and discipline.

Any interested person may make written comments on the proposed rules no later than May 9, 1989, addressed to Susan Osmann, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed rules are intended to implement Iowa Code chapters 147 and 149.

ITEM 1. Amend rule 220.1(147, 149) as follows:

645—220.1(147,149) Conducting examinations Examination and licensure requirements.

220.1(1) All applications for examination must be made upon the official forms supplied by the *Board of Podiatry Examiners*, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

220.1(2) ~~These~~ *The* application forms ~~properly filled out fully completed per instructions on forms~~ shall be filed with the ~~board of podiatry examiners, department of public health together with the applicant's diploma~~ all required supporting documents and the required fee fees at least 30 days before the date of examination. *Application requirements are as follows:*

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

a. Submit a completed application form with official supporting documents and the accompanied fee of \$100;

b. Present with the application an official copy (8" x 11") of diploma and official transcript proving graduation from a college of podiatric medicine approved by the American Association of Colleges of Podiatric Medicine.

c. Pass all of Part 1 and Part 2 of the National Board of Podiatry Examiners' examination with substantiating documentation.

d. Pass a board administered oral examination unless the examination is waived by the board;

e. If licensed in another state, also present with the application an official copy of license and current renewal of license to practice podiatry issued by another state, and an official statement issued by a licensing board or department that no disciplinary action is pending against the applicant and the applicant does not have a suspended or revoked podiatry license in any other state.

220.1(3) Each application form will require a full statement be made of the number and date of each state examination taken prior to submitting the application to this board, together with the average obtained thereon at each, and whether or not any certificate issued the candidate has ever been suspended or revoked. Applicants who file incomplete applications will not be allowed to take the examination.

220.1(4) The statements made in on the application form and supporting documents shall be subscribed and sworn to by the applicant and attested under seal by a notary public.

220.1(5) A senior student expecting to graduate from an approved accredited podiatry college at the end of the spring term may be admitted to the state examinations held in May or June upon a presentation of a certificate from the dean of the college stating that the applicant has conformed to all the college requirements and will be granted a diploma at commencement, but the examination papers will not be rated until the diploma has been issued received and verified by the board of podiatry examiners, department of public health.

220.1(6) No candidate shall under any circumstances enter the examination more than 30 minutes late unless excused by the examiners and no candidates shall leave the room after the distribution of the question papers examination. Candidates shall not be permitted to leave the room during the examination unless accompanied by one of the examiners or a clerk endorsed by the board.

220.1(7) The candidates will be seated at a distance from one another so as to allow individual privacy and will not be permitted to communicate with each other during the hours of examination, nor to have in their possession help assistance of any kind. Any applicant detected in seeking or giving help assistance during the hours of examination will be dismissed and the candidate's papers examination canceled. The candidate will be entitled to return for another examination within 14 months.

220.1(8) Rescinded, effective January 26, 1984: Applicants passing the PMLexis (Virginia) written examination given by Iowa within three years prior to making application in Iowa shall not be required to pay examination fees or take the examination. However, these applicants shall meet all other requirements for licensure, as outlined in subrule 220.1(2) and shall show official certification of grades and passing score as stated in subrule 220.1(5).

220.1(9) to 220.1(12) Rescinded.

220.1(13) There shall be assigned a time and place to each candidate for the purpose of being given an oral examination by the board of examiners in the following subjects: An oral examination will be required which will consist of personal history, ethics, theory in practice, laws, and rules and regulations.

220.1(14) Rescinded.

220.1(15) A general average of not less than 75 percent of the correct answers will be required to pass; but no certificate will be granted to an applicant whose grade is below 70 percent in any one subject. A passing score as recommended by the administrators of the PMLexis (Virginia) examination will be required to pass the state issued examination. This is not to be confused with requirements for passage of national boards.

220.1(16) Rescinded.

220.1(17) At the conclusion of the examination each candidate will be required to sign the following:

Declaration of Honorable Conduct in Taking Examination:

We, the undersigned, each and severally declare that we are applicants for certificates from the Iowa Department of Public Health as certified to it by the State Board of Podiatry Examiners authorizing us to practice Podiatry in Iowa, and that we were present and took the examination held at, Iowa, on, 19

We further declare we neither received nor extended any aid to others nor resorted to any means whatsoever to secure the required ratings to enable us to pass.

We further declare that we did not see any of the sets of questions used at this examination until they were handed out distributed by the examiners.

220.1(18) Rescinded.

This rule is intended to implement Iowa Code sections 147.36 and 147.80.

ITEM 2. Rescind rule 220.2(147,149) in its entirety.

ITEM 3. Amend rule 220.3(147) as follows:

645—220.3(147) Fees. All fees are nonrefundable. Checks should be made payable to the Iowa Board of Podiatry Examiners.

220.3(1) Examination fee for a license to practice podiatry is \$100. License fee for a license to practice podiatry is \$100. Application fee or reinstatement fee for a license to practice podiatry is \$100.

220.3(2) License to practice podiatry issued under a reciprocal agreement is \$100. Examination fee for a license to practice podiatry is \$100.

220.3(3) Fee for renewal of license to practice podiatry for a biennial period is \$140.

220.3(4) Fee for a certified statement that a licensee is licensed in this state is \$10.

220.3(5) Fee for a duplicate replacement license if the original license is lost or stolen is \$10.

220.3(6) Application fee for a temporary certificate for an academic staff member of a podiatry school is \$100. The annual renewal fee for a temporary certificate for an academic staff member is \$70. Application for a temporary license is \$100. The annual renewal fee for a temporary license is \$70.

220.3(7) Penalty fee for failure to renew at required time is \$50.

220.3(8) Penalty fee for failure to complete continuing education requirements as provided in subrule 220.101 is \$50.

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

220.3(9) Penalty fee for failure to file the Report of Continuing Education Hours for License Renewal at the required time is \$25.

This rule is intended to implement Iowa Code sections 147.36, 147.80 and 149.7.

ITEM 4. Amend rule 220.4(147,149) as follows:

645—220.4(147,149) Temporary certificate license for academic staff member of podiatry school.

220.4(1) A temporary academic certificate license may be issued for one year and at the discretion of the board may be annually renewed not to exceed two additional years. A temporary academic certificate is valid only for duties performed for the podiatry school.

220.4(2) Each applicant shall:

a. Submit a completed application form with official supporting documents and the accompanied by a fee of \$100;

b. Present with the application an official statement from the chief executive officer of a school of podiatry located in Iowa that the applicant is on the academic staff of the school copy (8" x 11") of diploma and official transcript proving graduation from a college of podiatric medicine approved by the American Association of Colleges of Podiatric Medicine.

c. Present with the application an official copy of a diploma issued by a school of podiatry approved by the board and an official transcript;

d. Present with the application an official copy of license and current renewal of a license to practice podiatry issued by another state; Pass all of Part 1 and Part 2 of the National Board of Podiatry Examiners' examination with substantiating documentation.

e.d. Present with the application an official statement issued by a licensing board or department that no disciplinary action is pending against the applicant; Show good reason why a temporary podiatric license should be issued, by furnishing an affidavit by a licensed podiatrist, institution director, or dean of an approved podiatric college from this state, setting forth the facts supporting the need for issuance of said license, of which the following reasons shall qualify:

(1) Purchase or assumption of a podiatric practice.

(2) Aiding a licensed podiatrist, in the state of Iowa, because of the licensee's disability.

(3) Association with an Iowa licensed podiatrist.

(4) Faculty member of a podiatry school in Iowa.

(5) Acceptance in a residency program approved by the American Association of Colleges of Podiatric Medicine or a preceptorship program approved by a sponsoring accredited podiatry college.

f.e. Successfully complete Pass a board administered oral examination unless the examination is waived by the board.

f.If licensed in another state, also present with the application an official copy of license and current renewal of license to practice podiatry issued by another state, and an official statement issued by a licensing board or department that no disciplinary action is pending against the applicant and the applicant does not have a suspended or revoked podiatry license in any other state.

Applicants must realize that the ultimate decision to issue a temporary license resides with the board, and a temporary license shall be surrendered if reason for issuance ceases to exist.

220.4(3) The chairperson of the board of examiners may administer the oral examination and may authorize

the issuance of a temporary certificate following conferral with and approval by a majority of the board members. Conferral and approval may be given by mail or telephone as well as by formal meeting of the board.

This rule is intended to implement Iowa Code section 149.7.

ITEM 5. Add a new rule as follows:

645—220.5(514F) Utilization and cost control review.

220.5(1) The board shall establish U.C.C.R. (Utilization and Cost Control Review) committee(s). The name(s) of the committee(s) shall be on file with the board and available to the public. The designation of the committee(s) shall be reviewed annually.

220.5(2) Members of the U.C.C.R. committee shall:

a. Hold a current license.

b. Practice podiatry in the state of Iowa for a minimum of five years.

c. Be actively involved in a podiatric practice during the term of appointment as a U.C.C.R. committee member.

d. Not assist in the review or adjudication of claims in which the committee member may reasonably be presumed to have a conflict of interest.

220.5(3) Procedures for utilization and cost control review. A request for review may be made to the board by any person governed by the various chapters of Title XX of the Iowa Code, self-insurers for health care benefits to employees, other third-party payors, podiatry patients or licensees.

a. The fee for service shall be \$100, which will be made payable directly to the U.C.C.R. committee. The committee shall make a yearly accounting to the board.

b. A request for service shall be submitted to the executive director of the U.C.C.R. committee on an approved submission form and shall be accompanied by four copies of all information. All references to identification and location of patient and doctor shall be deleted and prepared for blind review by the executive director of the U.C.C.R. committee. The information shall be forwarded to the U.C.C.R. committee.

c. The U.C.C.R. committee shall respond in writing to the parties involved with its findings and recommendations within 90 days. The committee shall review the appropriateness of levels of treatment and give an opinion as to the reasonableness of charges for diagnostic or treatment services rendered as requested. The U.C.C.R. committee shall submit a quarterly report of their activities to the board.

220.5(4) Types of cases reviewed shall include:

a. Utilization.

(1) Frequency of treatment,

(2) Amount of treatment,

(3) Necessity of service,

(4) Appropriateness of treatment.

b. Usual and customary service.

220.5(5) Criteria for review may include but are not limited to:

a. Was diagnosis compatible and consistent with information?

b. Were X-ray and other examination procedures adequate, or were they insufficient or nonrelated to history or diagnosis?

c. Were clinical records adequate, complete, and of sufficient frequency?

d. Was treatment consistent with diagnosis?

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

e. Was treatment program consistent with scientific knowledge and academic and clinical training in accredited podiatric colleges?

f. Were charges reasonable and customary for the service?

220.5(6) Members of the U.C.C.R. committee shall observe the requirements of confidentiality imposed by Iowa Code chapter 258A.

220.5(7) Action of the U.C.C.R. committee does not constitute an action of the board.

ITEM 6. Amend rule **220.100(258A)** by adding the following definition in alphabetical order.

"License" means a license to practice podiatry.

ITEM 7. Amend rule **220.101(258A)** as follows:

645—220.101(258A) Continuing education requirements.

220.101(1) Rescinded.

220.101(21) From January 1, 1979 to December 31, 1981, continuing education compliance year shall extend from January 1 to December 31, during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent license renewal year beginning July 1 and expiring June 30.

Beginning January 1, 1982, the continuing education compliance period shall extend from January 1, 1982, to December 31, 1983, and each biennium thereafter, during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent biennial license renewal period beginning July 1 of each even-numbered year.

220.101(3) Rescinded.

220.101(42) It is the responsibility of each licensee to finance the costs of continuing education. Continuing education requirements relating to licensees are as follows:

a. Each licensee will be required to maintain a file of certificates of attendance for continuing education hours accrued during each biennium, and retain this record of proof for four years from the end of each biennium.

b. Each licensee will file the Report of Continuing Education Hours for License Renewal by April 1 of even-numbered years. Failure to do so will result in a penalty fee as described in subrule 220.3(9) and a possible audit of the licensee's reports.

c. A group of licensees will be audited each biennium and will be required to submit to the board copies of certificates of attendance and a description of program content that will indicate the integral relationship of the program to the practice of podiatry. If audited, this certificate of attendance will contain the following information: date of program, program title and program site, number of clock hours attended, name of sponsor, and licensee's name; or a personal letter to the licensee with the appropriate information (as listed above) signed by a program official. The licensees who are audited will be chosen in a random manner or at the discretion of the board. Falsifying reports or failure to meet continuing education requirements will cause the license to lapse and may result in formal disciplinary action.

220.101(53) If a new license holder licensee is licensed during the first year of the biennial continuing education period, the licensee is only required to complete 15 hours (20 hours from 1990 on) of continuing education for the first license renewal. If a new license holder licensee is licensed during the second year of the biennial continuing

education period, the licensee will be exempt from meeting continuing education requirements for the first license renewal. The new license holder licensee will be required to obtain 30 40 hours of continuing education for the second subsequent license renewal, as of January 1, 1990.

ITEM 8. Amend subrules **220.102(2)** and **220.102(3)** as follows:

220.102(2) It pertains to common subjects or other subject matters which integrally relate to the practice of podiatry; and, such as scientific oriented material or risk management. No office management courses will be accepted by the board of podiatry examiners; and

220.102(3) It is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program. Except as may be allowed pursuant to **220.107(258A)**, no licensee shall receive credit exceeding 10 percent of the annual total required hours for self study, including television viewing, video or sound recorded programs, correspondence work, or research, or by other similar means as authorized by the board. Continuing medical education credits will not be awarded unless the physician is in physical attendance. For example, podiatric tracks on tapes would not qualify, but board review courses by approved sponsors would qualify.

ITEM 9. Rescind rule **220.103(258A)** in its entirety and insert the following in lieu thereof:

645—220.103(258A) Approval of sponsors, programs and activities. Continuing education activity shall be approved if it is of a podiatric scientific nature and sponsored by an accredited College of Podiatric Medical Association or a regional or state affiliate or nonprofit hospital. Prior approval is not required. Credit is given only for actual hours attended.

ITEM 10. Rescind rule **220.105(258A)**, in its entirety.

ITEM 11. Amend rule **220.106(258A)** as follows:

645—220.106(258A) Attendance record report. The person or organization sponsoring an approved continuing education activities activity shall provide a certificate of attendance to the licensee giving the required information as outlined in subrule **220.101(2)**, paragraph "c." make a written record of the Iowa licensees in attendance and send a signed copy of such attendance record to the secretary of the board upon completion of the educational activity, but in no case later than February 1 of the following calendar year. The report shall be sent to the Iowa Department of Public Health, Professional Licensure, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 12. Amend rule **220.107(258A)** as follows:

645—220.107(258A) Physical disability Disability or illness. The board may, in individual cases involving physical disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and a physician licensed by board of medical examiners an appropriately licensed health care professional, and

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

~~the waiver is acceptable to the board.~~ Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the ~~physical~~ disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee ~~must shall~~ reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

ITEM 13. Amend subrules 220.109(1) and 220.109(2) as follows:

220.109(1) Submit written application for reinstatement to the board upon forms provided by the board with appropriate \$100 reinstatement fee; and

220.109(2) Furnish in the application evidence of one of the following:

a. The full-time practice of podiatry in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of a total number of hours of accredited continuing education computed by multiplying ~~15~~ 20 by the number of years a certificate of exemption shall have been in effect for such applicant; or

c. Successful completion of the Iowa state license examination conducted within one year immediately prior to the submission of such application for reinstatement.

ITEM 14. Amend rule 220.201(258A) as follows:

645—220.201(258A) Complaint. A complaint of a licensee's professional misconduct shall be made in writing by any person to the Board of Podiatry Examiners, Professional Licensure Division, Lucas State Office Building, Des Moines, Iowa 50319-0075. The complaint shall include complainant's name, address, and ~~phone~~ telephone number, be signed and dated by the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter.

ITEM 15. Amend rule 220.203(258A) as follows:

645—220.203(258A) Investigation of complaints or malpractice claims. The chairperson of the board of podiatry examiners shall assign an investigation of a complaint or a malpractice claim to a member of the board who will be known as the investigating board member or may request the Iowa department of public health to investigate the complaint or malpractice claim. The investigating board member or ~~employee of the department-assigned investigator~~ may request information from any peer review committee which may be established to assist the board. The investigating board member or ~~employee of the department-assigned investigator~~ may consult with ~~an the administrative hearing officer or~~ assistant attorney general concerning the investigation ~~on or~~ evidence produced from the investigation. The investigating board member, ~~if the board member investigates the complaint; the director of the licensing and certification section; department-assigned investigator, or an administrative hearing officer or an~~ assistant attorney general ~~if the department~~

~~investigates the complaint,~~ shall make a written determination whether there is probable cause for a disciplinary hearing. The investigating board member shall not take part in the decision of the board, but may appear as a witness.

ITEM 16. Rescind rule 220.204(258A) and insert the following in lieu thereof:

645—220.204(258A) Alternative procedure and settlement.

220.204(1) A disciplinary hearing before the licensing board is an alternative to the procedure provided in Iowa Code sections 147.58 to 147.71.

220.204(2) Informal stipulation or settlement negotiations may be initiated by either party to the controversy either prior to or during a contested case proceeding. However, neither party is obligated to utilize this informal procedure to settle the controversy pursuant to informal procedures. The investigating board member charged with the responsibility of handling disciplinary and enforcement matters shall have the authority to negotiate an informal settlement. If the investigating board member believes it to be in the best interest of the board and the public to informally settle the controversy, the investigating board member shall recommend the terms of stipulation or settlement to the board. If the board approves the terms, the investigating board member shall effectuate the settlement. The terms of the stipulation or settlement shall be in writing for entering and filing by the board.

ITEM 17. Amend rule 220.206(258A) as follows:

645—220.206(258A) Notice of hearing. If there is a finding of ~~probably~~ probable cause for a disciplinary hearing ~~by the investigating board member or by the department, the bureau of professional licensure of the department shall prepare the notice of hearing and transmit the notice of hearing to the respondent by certified mail, return receipt requested, at least ten days before the date of the hearing.~~

ITEM 18. Amend rule 220.211(258A) as follows:

645—220.211(258A) Publication of decisions. Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate professional association, the news media, ~~and the employer-, and the Federation of Podiatric Medical Boards.~~

ITEM 19. Amend rule 220.212(258A) as follows:

Amend the introductory paragraph as follows:

645—220.212(258A) Suspension, revocation or probation. Discipline. For all acts and offenses listed in this rule, the board may impose any of the disciplinary methods outlined in Iowa Code section 258A.3(2) "a" to "f" including the imposition of a civil penalty which shall not exceed \$1000. The board may ~~revoke or suspend a license or place discipline~~ a licensee ~~on probation~~ for any of the following reasons:

Amend subrule 220.212(1), paragraph "e," as follows:

e. Conviction of a felony related to the profession ~~or occupation~~ of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or a plea of guilty shall be conclusive evidence.

Amend subrule 220.212(10) as follows:

220.212(10) Submission of a false report of continuing education or failure to submit the ~~annual biennial~~ report of continuing education.

ARC 9806**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.11, the Iowa Department of Public Health hereby gives Notice of Intended Action to create a new Chapter 83, "Well Elderly Screening Clinics," Iowa Administrative Code, to establish procedures for administering the Well Elderly Screening Clinic Program.

The program provides state funds to county, district or city boards of health for Well Elderly Screening Clinics. The proposed rules outline the required service components, application and renewal processes, contracting procedures, funding provisions, required agency performance and reporting requirements and an appeal process.

A public hearing on the Notice of Intended Action will be held on May 10, 1989, at 1 p.m. in the Lucas State Office Building, 4th floor conference room, side 1.

Any interested person may make written comments on or before Wednesday, May 10, 1989. Comments should be addressed to: Joyce Bowdish, Iowa Department of Public Health, Division of Family and Community Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The following new chapter is proposed:

CHAPTER 83**WELL ELDERLY SCREENING CLINIC**

641—83.1(135) Program purpose. The purpose of well elderly screening clinics is to promote wellness and improve the health of older adults by providing health assessment and teaching services as well as to provide an entry point into the health care system for medically underserved older adults.

641—83.2(135) Definitions. For the purpose of these rules, unless otherwise defined:

"Contractor" means either a local board of health or a nonprofit agency with written consent of the local board of health.

"Department" means the Iowa department of public health.

"Local board" means a county, district or city board of health as defined in Iowa Code section 137.2.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.

"Well elderly screening clinics" means preventive health service designed for clients 55 years of age or older for the purpose of promoting the health of older adults by conducting health assessments and teaching clients about ways to maintain, restore or improve their health as older adults as well as provide information about community and health care services and resources including referral to appropriate resources for assistance.

641—83.3(135) Required service components.

83.3(1) The following components shall be provided by the contractor:

a. A comprehensive health screening service which shall include at least a health history, physical assessment and screening tests.

b. Health promotion and health teaching appropriate to the special needs of older adults.

c. Information about community and health care services and resources.

d. Referral to resources to meet identified needs and follow-up mechanisms.

83.3(2) The comprehensive health screening service shall be done by a physician or by a registered nurse who has completed a course in adult health assessment approved by the department.

641—83.4(135) Application and renewal procedures.

83.4(1) Prior to the beginning of the contract period, the department will release a packet detailing the application and renewal process. Contractors wishing to provide well elderly screening clinics shall make application or renewal to the department as specified by the packet. Contractors shall apply to administer well elderly screening clinics on an annual basis. Only one application or renewal shall be submitted per county.

83.4(2) Applications and renewals shall be reviewed and rated based on completeness and criteria established and published annually by the department. The application shall provide evidence of consultation with local physicians and other health care providers in order to ensure that the proposed clinic does not duplicate existing services. The department will sign a contract with local boards or nonprofit agencies to administer the award.

83.4(3) All materials submitted as part of the application or renewal process are public records.

641—83.5(135) Contracting procedures.

83.5(1) The department shall award a contract only to a local board of health or to a nonprofit agency having written consent of the local board of health. A local board of health or nonprofit agency may apply for a multi-county project with the written consent from all involved county/city local boards of health.

83.5(2) The local boards may subcontract with nonprofit agencies to provide well elderly screening clinic services. When subcontracting, there shall be a written agreement between the local board of health and the subcontractor.

83.5(3) Contracts shall be determined on the basis of the grant application or renewal submitted to the department prioritizing to counties which provide funding on a matching basis. Only one contract shall be awarded per county.

641—83.6(135) Funding levels. The amount of funds granted to each contractor on an annual basis shall be determined by the department using a formula based upon dollars available, percent of each county's population aged 55 and older and selected performance criteria identified in the contract signed by both parties.

641—83.7(135) Agency performance.

83.7(1) Contractors shall provide services in accordance with these rules and the general and specific conditions of the contract.

83.7(2) The department shall review local agency operations through use of reports and documents

PUBLIC HEALTH DEPARTMENT[641] (cont'd)

submitted, chart audits of the clinical records and on-site visits for evaluations and technical assistance.

641—83.8(135) Reporting. Budgets, expenditures and data reports shall be done by contractors in compliance with the general and specific conditions of the contract with the Iowa department of public health.

**NOTICE—PUBLIC FUNDS
INTEREST RATES**

In compliance with Iowa Code chapter 74A and section 453.6, the Committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Banking Edward L. Tubbs, and Auditor of State Richard D. Johnson have established the following rates of interest for public obligations and special assessments. The usury rate for April is 11.25%.

**INTEREST RATES FOR PUBLIC
OBLIGATIONS AND ASSESSMENTS**

- 74A.2 Unpaid WarrantsMinimum 7.5%
- 64A.4 Special Assessments ...Maximum 12.0%

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective April 3, 1989, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7 - 31 daysMinimum 8.30%
- 32 - 89 daysMinimum 8.50%
- 90 - 179 daysMinimum 8.70%
- 180 - 364 daysMinimum 9.00%
- One yearMinimum 8.90%
- Two yearsMinimum 9.50%

These are minimum rates only. The one year and less are six-tenths of a percent below average rates. Public body treasurers and their deputies may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 9797

ACCOUNTANCY EXAMINING
BOARD[193A]

Adopted and Filed

Pursuant to the authority of Iowa Code section 116.4, the Iowa Accountancy Examining Board of the Professional Licensing and Regulation Division, Department of Commerce, hereby amends Chapter 14, "Fees," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 8, 1989, as ARC 9638.

There were no public comments received and there are no changes from the Notice of Intended Action.

This rule is intended to implement Iowa Code sections 116.3 and 116.15.

This rule will become effective May 24, 1989.

Amend rule 193A—14.1(116) as follows:

193A—14.1(116) Required fees. The following is a schedule of the fees for examinations, certificates, licenses, registrations, permits and renewals adopted by the board:

Original CPA examination application	\$90 150
Reexamination:	
One subject	40 60
Two subjects	50 80
Three subjects	60 100
All subjects	75 120
Original AP examination application	65 120
Reexamination:	
One subject	40 60
Two subjects	50 80
Issuance of CPA certificate or AP license resulting from passing examination	None
Application for CPA certificate by reciprocity	60
Application for AP license by reciprocity	60
Application to register foreign license	100
Biennial registration and renewal of CPA certificate, AP license or foreign license	20
Biennial permit to practice as a certified public accountant	90
Biennial permit to practice as an accounting practitioner	70
Biennial permit to practice as a foreign licensee	70
Annual Biennial registration of partnership or corporation	50 25

[Filed 3/30/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9798

ARCHITECTURAL EXAMINING
BOARD[193B]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 118.5 and 118.29, the Architectural Examining Board of the Professional Licensing and Regulation Division amends Chapter 1, "Description of Organization," Chapter 2, "Registration," and Chapter 3, "Continuing Education," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 25, 1989, as ARC 9616.

There were no public comments received. Two changes were made to the Notice of Intended Action.

Subrule 1.4(1) was changed by removal of the language that the Board may assess a reasonable penalty. This language appears in Iowa Code section 118.10.

The language in subrule 1.4(2) was changed to remove reference to failure to renew a certificate within 30 days. Iowa Code section 17A.18 establishes procedures for expiration of a certificate.

These rules are intended to implement Iowa Code sections 118.5, 118.8, 118.9 and 118.10.

These rules will become effective May 24, 1989.

ITEM 1. Amend subrules 1.1(3) and 1.1(4) as follows:

1.1(3) Secretary-treasurer. The secretary-treasurer shall sign all certificates; and may sign vouchers for payment of expenses of the board.

1.1(4) Administrative secretary. The board division may shall employ an administrative secretary who will maintain all necessary records of the board and perform all clerical duties in connection with the operation of the board office. The administrative secretary division administrator or designee shall sign vouchers for payment of board obligations if not signed by the secretary-treasurer.

ITEM 2. Amend rule 193B—1.4(118,17A) as follows:

193B—1.4(118,17A) Certificates. Certificates issued to successful applicants shall contain the registrant's name, state registration number and the signatures of the board president, vice president and secretary-treasurer. All registrations are renewable *biennially on July 1, with registrants whose last names begin with the letters A-K renewing in even-numbered years and registrants whose last names begin with the letters L-Z renewing in odd-numbered years of each year.* All registrants will receive a notice of renewal and a wallet card indicating current registration.

Further amend rule 193B—1.4(118,17A) by adding the following new subrules:

1.4(1) A person who fails to renew the certificate of registration by the expiration date, but does so within 30 days following its expiration date, shall be allowed to do so.

1.4(2) The board shall give notice by certified mail, return receipt requested, to the holder of a certificate of registration who has failed to renew. The certificate of registration may be reinstated in accord with rule 193B—2.3(118,17A).

ITEM 3. Amend subrule 2.2(2) as follows:

2.2(2) Practical training shall ~~have been~~ be equivalent to "Training Requirements for Intern Architect Development Program (IDP) Applicants for NCARB Certification" in accordance with Appendix "B" to Circular of Information No. 1, 1988-1989 issued by the NCARB. "IDP periodic Assessment Reports" forms, published by NCARB, verified by signature of a registered architect, signatures of registered architects serving as: (a) a professional sponsor who is or has been the intern-architect's current employer or an architect in the firm who has substantial responsibility and has been assigned by the firm to act in this capacity; and (b) a professional advisor who is a registered architect, usually outside the intern's firm, with whom the intern meets for guidance

ARCHITECTURAL EXAMINING BOARD[193B] (cont'd)

and evaluation of progress; shall have been completed to demonstrate attainment of an aggregate of the minimum number of value units in each training area and submitted by the applicant at the time of application.

ITEM 4. Rescind rule 193B—2.3(118,17A) and insert in lieu thereof the following:

193B—2.3(118,17A) Reinstatement. An expired certificate of registration can be reinstated within two years by completing all of the following:

1. Paying the reinstatement fee.
2. Paying the renewal fee.
3. Submitting evidence of compliance with the continuing education requirements for the two years prior to the date the certificate of registration expired in compliance with requirements in Chapter 3 (40 contact hours). If the continuing education requirements cannot be met, reinstatement requirements will be determined by the board. The certificate will be reinstated when the requirements have been satisfied and fees have been paid.

2.3(1) Any certificate of registration expired beyond two years will be handled as a new registration. The registrant must do one of the following:

- a. Submit an updated NCARB record with payment of the examination fees and pass the ARE.
- b. Submit an updated NCARB record with proof of maintaining a base state registration.
- c. Fulfill reinstatement requirements determined by the board.

2.3(2) When maintenance of competency has been satisfied and payment of the registration fee has been made, the certificate can be registered, and a new registration number will be issued.

ITEM 5. Amend rule 193B—3.1(118), introductory paragraph, as follows:

193B—3.1(118) Continuing education. The following rules, adopted by the Iowa architectural examining board, are in compliance with Iowa Code sections 118.5 and 258A.42, requiring professional and occupational licensees to participate in a continuing education program as a condition of registration renewal.

[Filed 3/30/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9802

COMMUNITY ACTION AGENCIES DIVISION[427]

Adopted and Filed

Pursuant to the authority of 1988 Iowa Acts, chapter 1280, section 10; and Title XXVI of the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, as amended by P.L. 98-558, the Division of Community Action Agencies, Department of Human Rights, hereby adopts amendments to Chapter 10, "Low-Income Home Energy Assistance Program (LHEAP)," Iowa Administrative Code.

Subrules 10.3(5) to 10.3(9) expand the services of the Energy Assistance Crisis Program and establish a Supplemental Assistance program.

Notice of Intended Action to solicit public comment was published November 16, 1988, in the Iowa Administrative Bulletin as **ARC 9459**.

These rules are identical to the Notice of Intended Action and shall become effective May 24, 1989.

These rules are intended to implement 1988 Iowa Acts, chapter 1280, section 10, and Title XXVI of the Omnibus Budget Reconciliation Act of 1981, P.L. 98-558.

The following amendments are adopted:

ITEM 1. Amend subrule 10.2(2) as follows:

10.2(2) Household income refers to total gross cash receipts from all sources for each member of the household present at the time of application. Income includes but is not limited to: money, wages, and salaries before any deductions, but not including food or rent in lieu of wages. Household income includes receipts from nonfarm and farm self-employment (e.g., receipts from the person's own farm or business after deductions for farm or business expenses; *depreciation allowance is a business or farm expense*; capital gains and losses are disregarded); also regular payments from Social Security, railroad retirement, unemployment compensation, workers' compensation, strike benefits *from union funds*, public assistance including supplemental security income, training stipends, alimony, child support, and military family allotments, or other regular support from an absent family member or someone not living in the household, private pensions, government employee pensions, regular insurance or annuity payments, and income from dividends, interest, rents, royalties, or income from estates and trusts.

ITEM 2. Amend subrule 10.2(3) as follows:

10.2(3) For program eligibility purposes, income does not include the following: capital gains, any assets drawn down as withdrawals from a bank, sale of property, a house, or a car, *one-time payments from a welfare agency to a family or person who is in temporary difficulty*, tax refunds, gifts, lump sum inheritances, one-time insurance payments or compensation for injury, income which is administratively difficult to compute, income from G.I. educational benefits, interest from U.S. H & I Series Bonds, and income of household members under 18 who are employed part-time; also excluded are noncash benefits such as employer-paid or union-paid portions of health insurance and other employee fringe benefits, food or rent received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or family housing, and such federal programs as Medicaid, food stamps, *school lunches*, and public housing; *and other income, the exclusion of which is required by law*.

ITEM 3. Amend subrule 10.3(4) by rescinding paragraphs "b" and "c" and inserting the following:

b. Eligible households who pay a designated portion of the rent towards energy costs will receive assistance sent directly to the household for the full amount.

c. Reserved.

ITEM 4. Amend subrule 10.3(5) as follows:

10.3(5) Crisis program.

a. Funds are available to provide assistance for energy-related home heating crisis situations. To be eligible for crisis assistance, a household must file an application by **March 15**, must meet the income guidelines of the energy assistance program, and must meet the definition of a "crisis situation."

COMMUNITY ACTION AGENCIES DIVISION[427] (cont'd)

b. "Crisis situation" is defined as one which poses an immediate threat to life or health when a fuel supply is disrupted or discontinued, or disruption or discontinuance will occur within 48 hours.

c. Each crisis situation will be evaluated individually by the CAA energy coordinator who shall determine the amount of assistance to be made up to a maximum of \$500. The nature of the crisis and the method of determining assistance shall be documented for the file and shall be subject to review by the local agency director.

d. Federal regulations require that a life-threatening situation be evaluated and resolved within 18 hours of contact by the household in the following manner.

(1) Not later than 48 hours after a household applies for energy crisis benefits, each administering agency must provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits;

(2) Not later than 18 hours after a household applies for crisis benefits, each administering agency must provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits and is in a life-threatening situation; and

(3) Each administering agency must:

1. Accept applications for energy crisis benefits at sites that are geographically accessible to all households in the area to be served by such entity; and

2. Provide to low-income individuals who are physically infirm the means to submit applications for energy crisis benefits without leaving their residences or to travel to the sites at which such applications are accepted by such entity.

e. Any household which has been denied crisis assistance may utilize the regular appeal procedure.

ITEM 5. Amend subrule 10.3(6) as follows:

10.3(6) Immediate drawdown of regular energy assistance payment. In a life-threatening situation, to ensure an uninterrupted supply of fuel, an immediate drawdown of a regular energy assistance payment in an amount equal to the 150 percent energy assistance award for an eligible household may be made based on preliminary telephone verification of income or, when necessary, a self-declaration. A repayment agreement must be signed by the client in order to advance payment in the event the client is later found to be over income. The remaining amount of the assistance award, if any, may be paid after verification of income is received. This portion of the crisis program begins November 1 and ends the last working day of February.

ITEM 6. Amend subrule 10.3(7) as follows:

10.3(7) Energy crisis intervention payments not to exceed ~~\$150~~ \$500 per household may be authorized by the local administering agency where necessary to prevent an immediate threat to life or health as specified in the procedures manual referred to in 10.6(72GA,SF513,PL97-35,PL98-558). Applications for crisis assistance will be accepted from the first working day in November until the last working day of March. Crisis payments are dependent on the availability of federal funds.

[Filed 3/30/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9813

CORRECTIONS DEPARTMENT[291]

Adopted and Filed

Pursuant to the authority of Iowa Code section 246.105, the Iowa Department of Corrections hereby amends Chapter 20, "Institutions Administration," Iowa Administrative Code.

Rule 291—20.6(246) establishes standards and procedures for access to publications and is also a result of the case of Dawson versus Scurr, Civil No. 81-373-D in the U.S. District Court, Southern District of Iowa, Central Division, regarding sexually explicit publications.

This rule was published under Notice of Intended Action as ARC 9569 and was adopted and filed emergency as ARC 9568 in the December 28, 1988, Iowa Administrative Bulletin.

A public hearing was held on January 17, 1989, and there were no written or oral comments submitted.

Changes from the Notice are as follows:

1. In subrule 20.6(1), fourth sentence, "shall" was changed to "will".

2. In paragraph 20.6(3)"c," the words "to the director" were deleted from the end of the sentence.

3. In subrule 20.6(4), first sentence, "inmates" was changed to "inmate". In the second sentence, "making such a finding" was changed to "denying a publication".

4. In paragraph 20.6(4)"b," first sentence, the word "depicts" was changed to "portrays".

5. In paragraph 20.6(4)"h," the word "proposed" was deleted.

6. In subrule 20.6(5), the word "Photographic" was deleted and "it" was changed to "the material".

7. In subrule 20.6(6), first sentence, the words "photographic portrayal of" were deleted; "can" was changed to "will"; and the second reference to paragraphs 20.6(4)"b" and 20.6(4)"c" was deleted. Also, the word "old" was added following the word "months" in the last sentence.

8. In subrule 20.6(7), the words "or the denial of a publication for treatment reasons" were added following the words "committee's decision".

This rule was adopted by the Corrections Board at the regular meeting of the Board on March 31, 1989.

This rule is intended to implement Iowa Code chapters 246 and 728.

This rule will become effective May 24, 1989, and the emergency adopted rule will be rescinded on the same date.

The following amendment is adopted:

Rescind rule 291—20.6(246) and insert in lieu thereof the following:

291—20.6(246) Publications. The institution shall allow inmates access to publications when consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation.

20.6(1) Publications include periodicals, newspapers, books, and other printed matter. All publications shall be unused and sent directly from a reputable publishing firm or book store which does mail order business. Any exceptions must be authorized by the warden or superintendent. No publication will be denied approval solely on the basis of its appeal to a particular ethnic, racial, religious, or political group. The quantity of

CORRECTIONS DEPARTMENT[291] (cont'd)

printed materials, as with other personal property, will be controlled for safety and security reasons.

20.6(2) All publications not on the approved list shall be reviewed by a publication review committee for approval or denial.

a. The committee shall be appointed by the director, department of corrections, and shall include a person with broad exposure to various publications, and two representatives of correctional institutions.

b. The committee shall fairly review all types of publications to be received by inmates in accordance with these rules.

20.6(3) The following procedures shall be used when reviewing a publication not on the approved list:

a. The committee shall approve or deny publications within 15 working days of receipt of the publication.

b. When a publication is denied, the committee shall send a written notice to the inmate, stating the publication involved, the reason for denial, and the inmate's available appeal process.

c. The inmate shall have five days to notify the designated institution staff where to send the material at the inmate's expense or notify the institution that the decision is being appealed.

d. A list of approved publications shall be maintained.

20.6(4) A publication may be denied when the publication presents a danger to the security or order of an institution or is detrimental to the rehabilitation of the inmate. Authorized reasons for denying a publication are that the publication:

a. Is likely to be disruptive or produce violence.

b. Contains material which portrays a child engaged in or simulating any of the following:

(1) An act which involves sexual contact between two or more persons by penetration of penis into the vagina or anus, by contact between the mouth and the genitalia or by contact between the genitalia of one person and the genitalia or anus of another person, or by the use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

(2) An act of bestiality involving a child.

(3) Fondling or touching the pubes or genitals of the child.

(4) Fondling or touching the pubes or genitals of a person by a child.

(5) Sadoomasochistic abuse of a child for the purpose of arousing or satisfying sexual desires of the person who may view a depiction of the abuse.

(6) Sadoomasochistic abuse of a person by a child for the purpose of arousing or satisfying the sexual desires of the person who may view a depiction of the abuse.

(7) Nudity of a child for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the nude child.

c. Contains material portraying bestiality, sadoomasochism, or excretory functions as prohibited by Iowa Code chapter 728.

d. Contains information relating to escapes or formulating escape plans.

e. Contains information relating to provoking a riot or disturbance.

f. Contains information relating to obtaining an emotional or behavioral state comparable to those produced by a controlled substance, by using aerosols, glue, or other chemical materials.

g. Contains materials which illustrate, explain, describe, or teach martial arts, or other manufacture

of weapons or explosives, or advocate behavior contrary to duly established institution rules or Iowa statutes. Contains materials which illustrate, explain, describe, or teach ability to frustrate crowd or riot control methods. Contains materials which illustrate, explain, describe, or teach ability to sabotage or disrupt communications networks including a prison's internal and external communications and automated information systems.

h. Contains information concerning criminal activities.

i. Contains encoded material. This shall not automatically include foreign language publications not otherwise prohibited in these rules.

j. May violate postal regulations, such as threats, blackmail, contraband, or similar violations.

20.6(5) Portrayal of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, male erection, or other sexually explicit materials will be denied to those inmates when the material is detrimental to the rehabilitation of an individual inmate, based on psychological/psychiatric recommendation.

20.6(6) Publications which contain material portraying fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse or male erection and are not prohibited by 20.6(4)"b," 20.6(4)"c," or 20.6(5) will be controlled for the security and order of the institution and to assist in enabling its control from those inmates denied access by 20.6(5). Institutional procedures shall be established for the inmate to reserve time in a designated controlled area and obtain the material for reading during specified times. The publication will be secured until the inmate makes arrangements for further review of the material. An inmate may have secured no more than ten publications at any given time, none of which are over three months old from publication date or receipt, and any that are in excess of the ten limit or over three months old must be sent out of the institution at the inmate's expense, or destroyed or taken with the inmate upon release.

20.6(7) An inmate may appeal the committee's decision or the denial of a publication for treatment reasons within ten days of receipt of the decision by filing written objections to the Director, Department of Corrections, Capitol Annex Building, 523 East 12th Street, Des Moines, Iowa 50319. The director's decision shall be final.

[Filed 3/31/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9812

CORRECTIONS DEPARTMENT[291]

Adopted and Filed

Pursuant to the authority of Iowa Code section 905.7, the Department of Corrections hereby amends Chapter 40, "Community-Based Corrections Administration," Iowa Administrative Code.

This new subrule establishes a uniform personnel system for all Judicial District Departments of Correctional Services to be implemented jointly by the Districts and the State Department of Corrections. This subrule also will allow the Department of Corrections specific authority to enforce its use.

CORRECTIONS DEPARTMENT[291] (cont'd)

This subrule was published under Notice of Intended Action as **ARC 9567** in the December 28, 1988, Iowa Administrative Bulletin.

A public hearing was held on January 17, 1989, and there were no written or oral comments submitted. This subrule is identical to the one published under Notice.

This subrule was adopted by the Corrections Board at the regular meeting of the Board on March 31, 1989.

This subrule is intended to implement Iowa Code section 905.7(5).

This subrule will become effective May 24, 1989.

Amend 291—40.5(905) by adding the following new subrule:

40.5(9) This district director shall administer the community-based corrections personnel classification system established by the district departments and the department of corrections and shall adhere to all salary ranges, policies, and procedures established for the purpose of implementing and maintaining the community-based corrections personnel classification system.

The district director shall administer the collective bargaining contract and adhere to all policies and procedures established by the department of corrections and department of personnel for contract administration.

Employee positions utilized by the district department shall be approved by the district board and the department of corrections through the purchase of service agreement. Any changes in the number and classification of positions authorized in the purchase of service agreement shall be approved by the district board and the department of corrections.

[Filed 3/31/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9800**ELDER AFFAIRS
DEPARTMENT[321]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249D.14, the Iowa Department of Elder Affairs adopts a new Chapter 20, "Older Iowans Legislature," Iowa Administrative Code.

The Commission of the Department adopted the rules at their regular meeting on March 17, 1989. Notice of Intended Action regarding the new chapter was published in the Iowa Administrative Bulletin on January 11, 1989, as **ARC 9600**.

At a public hearing held on February 1, 1989, no comments were received. One letter of comment was submitted expressing concern about the content of prefiled bills, subrule 20.8(1). As a result of this comment, paragraph "h" has been deleted.

Wording has been added to rule 20.4(249D) to clarify the intent of the rule.

As a result of comments and questions posed by the Administrative Rules Review Committee at a meeting on February 13, 1989, wording has been amended in rule 20.1(249D) to clarify the purpose of the Older Iowans Legislature, and the definition for "one person—one vote" was deleted in rule 20.3(249D).

In subrule 20.6(2), the catchwords have been amended and several words added to clarify the meaning of the rule.

Subrule 20.6(4)"c"(3) has been amended by the deletion of several words to enhance understanding of the rule.

Subrule 20.11(3) has been deleted.

These rules are intended to implement Iowa Code section 249D.33, subsections 17 and 19.

The following rules will become effective on May 24, 1989.

CHAPTER 20**OLDER IOWANS LEGISLATURE**

321—20.1(249D) Purpose. The purpose of the older Iowans legislature (OIL) is to provide a forum for Iowa's citizens aged 60 and older and increase their awareness of important legislative issues and the legislative process. The bills considered by this senior legislature represent a statewide needs assessment and publicize the issues that affect older people to elected officials and the general public.

321—20.2(249D) Description. The older Iowans legislature (OIL) is a unicameral model legislative body which provides an annual opportunity for older Iowans to participate directly in a legislative process modeled after formal procedures followed by the Iowa general assembly. One hundred delegates are community leaders elected by their peers in their local communities. Delegates will introduce bills, serve on OIL legislative committees and continue to serve as advocates at postsession meetings and panels. The Iowa capitol building is the site of the annual model legislature.

321—20.3(249D) Definitions. The terms used in these rules have the following meaning:

"Calendar" means a daily agenda of activities of the assembly which includes such things as bills to be acted upon by the assembly, committee hearings to be held that day or an address to be delivered.

"District" means one of the 100 geographic sections of the state containing a comparable number of people to the other 99 districts or sections of the state. Each district is assigned a number by the department for identification purposes and is represented by a single representative in the OIL assembly.

"Multiple delegate district" means a geographical area containing a concentration of elderly people which cannot be geographically divided in a reasonably acceptable manner and is assigned more than one delegate seat. The electorate of this area will vote for more than one delegate.

"Planning and service area" or "PSA" means a geographic area of the state that is designated by the commissioners for purposes of planning, development, delivery and overall administration of services under an area plan.

321—20.4(249D) Timetable. The department has established the following timetable for the annual OIL:

January - 1st Monday. The department mails an OIL timeline and information to area agency on aging (AAA) OIL coordinators and delegates.

March - 1st Monday. Last day for potential delegates to file nomination petitions with the AAA.

April - 2nd Monday. Election day in each AAA.

April - Friday after election. Each AAA submits certification of election results to the department.

ELDER AFFAIRS DEPARTMENT[321] (cont'd)

April - 4th Monday. Department mailing to delegates and AAAs which includes forms and information that are considered necessary by the department.

May - 1st Monday. Delegates submit biography and committee preference forms to the department. The OIL coordinator at each AAA submits the delegation's nominations for leadership positions.

May - June. Educational meetings are convened by each AAA at the convenience of delegates and the AAA.

May - Election of OIL leadership by delegates-elect in attendance at a training session held for OIL coordinators and delegates from each AAA.

July - 3rd Monday. Deadline for each AAA OIL delegation to submit four bills in priority order to the department.

July - last Monday. OIL leadership conference appoints committee chairpersons and approves members to individual committees.

August - 2nd Monday. Deadline for the OIL delegation from each AAA to submit a maximum of four resolutions to the department.

August - 3rd Monday. Department mails final packets to delegates and AAAs which contain prefiled bills, and other information considered necessary by the department.

September - 4th week. OIL session convenes on dates set annually by the department in cooperation with the capitol staff.

321—20.5(249D) State apportionment of seats. The percentage of the aged 60 and over population of the state by PSA, as determined by the most recent U.S. census of the population, is used by the department to determine apportionment.

321—20.6(249D) Election process.

20.6(1) Eligibility criteria. Any person may file to be considered as a candidate for election to OIL who:

- a. Has attained the age of 60 years on or before the day of the election;
- b. Is a resident of the district to be represented;
- c. Is willing to commit to a full term of service as an advocate for the elderly. This service may involve pre-session and post-session meetings as convened by the AAA coordinator.

20.6(2) Candidate characteristics. Candidates recruited shall be representative of their home area. Candidates shall include representatives of urban and rural areas, economic groups, both sexes, racial or ethnic minorities, senior citizens organizations, and other relevant distinctions.

20.6(3) Terms of office. It is the goal of this program to provide opportunity for participation to the greatest number of senior citizens possible.

a. For greater continuity of operation, a delegate's term of office shall be two years, and a delegate may be elected to serve two consecutive terms.

b. No delegate shall serve more than four consecutive years unless appointed to fill a vacated seat. In this instance, a delegate may serve up to a total of six consecutive years.

c. The department shall notify the AAAs of delegates ineligible for reelection at the close of each session.

20.6(4) AAA advisory council apportionment of seats.

a. An apportionment plan established by an AAA advisory council shall be filed with the department.

b. Each AAA advisory council shall indicate in their apportionment plan the process by which annual elections in the total area will be held.

c. AAA advisory councils may apportion seats within their PSA in any reasonably equitable manner. While AAAs have the option of basing apportionment on single geographic districts with equal population, other options may be explored. These options include:

(1) Multiple delegate districts in which all the older persons in the multiple district may vote for two or more seats.

(2) Where a large minority population exists, a district might be apportioned to that minority group.

(3) It may be desirable to apportion seats by county if population variations are not excessive.

d. AAA advisory councils shall review apportionment plans annually.

e. Any changes made in the apportionment plans by an AAA shall be submitted to the department for approval at least two months prior to the scheduled election.

20.6(5) AAA responsibilities in preparation for an election.

a. Each AAA shall appoint a staff person to be the OIL coordinator.

b. Elections shall be scheduled for the second Monday of April unless an alternative date has received a 60-day prior approval from the department.

(1) Primary elections shall not be held.

(2) Elections shall not be waived by any AAA due to lack of contests in one or more districts.

(3) Voting hours shall be chosen for the convenience of the majority of the eligible voters and widely posted and advertised at least two weeks prior to the election date.

(4) AAAs shall establish as many polling places as feasible that will offer the opportunity to vote to the greatest number of participants such as city halls, courthouses, community centers, libraries, and public facilities, and not limited to congregate meal sites.

(5) To staff the voting places, AAAs may recruit and register volunteer poll watchers.

(6) Poll watchers' duties shall include keeping a list of voters at each voting place. The list shall be kept at the AAA office for 60 days following the election to be used in the event of a challenge.

c. Local organization involvement. Local organizations shall be encouraged to assist in planning and scheduling elections, recruiting, nominating candidates, and obtaining the fullest possible participation of their members in the elections.

d. Absentee voting.

(1) Although recommended by the department, the option of absentee or mailed ballots will be left to the discretion of the AAA.

(2) If allowed, absentee ballots shall be made available upon request of an individual voter, and an alphabetical list of persons requesting absentee ballots shall be prepared.

(3) The absentee ballot list shall be checked against the voter list prepared at the voting sites on election day.

(4) Ballots shall be validated upon receipt and be received at the AAA office on or before election day.

321—20.7(249D) Declaring the winner.

20.7(1) Tied election. In the event of a tied election, the winner will be determined at the AAA office by a drawing to identify the winner. There shall be no run-off elections.

20.7(2) Election certification. Completed election certification forms supplied by the department shall be

ELDER AFFAIRS DEPARTMENT[321] (cont'd)

returned to the department office by the Friday following the election.

a. Certification forms not received by the due date will be approved by the department if due cause is found for the delay.

b. AAAs shall provide the department with the name and address, zip code, county of residence, phone number and social security number of elected delegates.

20.7(3) Replacement of a delegate-elect.

a. In the event a delegate-elect becomes unable to fulfill the delegate role, it is the responsibility of the AAA advisory council to:

(1) Declare the seat vacant;

(2) Appoint an alternate delegate who meets all the criteria of candidates; and

(3) Within five working days, notify the department of its action. Any vacated seat may be filled until four weeks prior to the start of the session.

b. It is the option of the AAA advisory councils to provide for the selection of alternates for each election district at the time of the general election.

c. Alternates shall not be reported to the department but shall be regarded by the AAA advisory council as potential replacements for delegates-elect who become unable to perform their duties.

d. Within ten calendar days of notification, the department shall supply to the appointed alternate the credentials necessary to fill the vacated seat.

20.7(4) AAA postelection duties. Postelection duties of AAAs and the AAA OIL coordinators shall be to:

a. Participate in an educational opportunity provided by the department;

b. Assemble delegates in May and June to organize the delegation, and assign responsibilities and assist the delegation in selection of committee preferences to ensure broad distribution of the delegates to committees;

c. Establish a calendar of delegate activities such as training sessions, scheduling of hearings or forums, or bill drafting;

d. Submit nominations for leadership positions to the department by the first Monday in May;

e. Submit bills prioritized by the area delegates and approved by the AAA advisory council to the department by the third Monday in July; and

f. Provide delegate training that includes, at a minimum:

(1) Review of the aging network and its inter-relationships;

(2) Review of delegate's commitment and responsibilities concerning advocacy;

(3) Review of the general OIL calendar of events;

(4) Review of the legislative process; and

(5) Exercises in bill drafting.

20.7(5) Delegate assignment to committees.

a. Committees shall be established annually by the department on the basis of the type of bills that are prefiled.

b. Delegates shall serve on only one committee, since all committees will meet concurrently.

c. Delegates who do not return their "committee preference" form will be assigned by the OIL leadership as necessary to complete committee rosters or to give the area delegation broader distribution in committees.

d. Delegates may individually arrange meetings with other members of their committee for preliminary consideration of legislative issues, to conduct orientation for novice delegates, or to meet other delegates. These

meetings are optional and expenses shall not be reimbursed by the department.

321—20.8(249D) Prefiling and content of bills.**20.8(1) Prefiling of bills.**

a. Each area delegation may submit up to four bills which represent the needs and concerns of that area.

b. Bills shall be prioritized by the area delegation and approved by the area advisory council.

c. All submitted bills shall have a title, the name of the delegate(s) submitting the bill, the purpose or objective of the bill, and content. Listing on the bill as a sponsor does not indicate assignment to the committee considering the bill.

d. To be considered a bill, the proposal shall call for a change in the Iowa Code or for the making of an appropriation.

e. Delegates shall be assisted by AAA coordinators to gather pertinent information concerning the content and validity of the bills.

f. The bills shall be in the format used by the Iowa general assembly.

g. Reference shall be made to the appropriate section(s) of the Iowa Code, and changes desired must be clearly indicated.

20.8(2) Department responsibilities with prefiled bills. The department shall:

a. Number the bills in consecutive order after coordinating bills from all areas;

b. Distribute the final drafts of prefiled bills to the delegates by the third Monday of August;

c. Consult with the legislative service bureau regarding bill content and language; and

d. Assign the final draft of prefiled bills to committees.

20.8(3) Policy analysis. The department may provide analysis on each prefiled bill.

20.8(4) Committee action on bills.

a. Committee chairpersons shall determine the order in which the assigned bills shall be considered by the committee.

b. Committees shall remember that the full OIL assembly has a limited time for debate and delegates must give fair consideration to all of the bills placed on the committee calendar.

c. Although committees may amend, rewrite, or defeat bills assigned to them, bills presenting new ideas or issues not incorporated in prefiled bills shall not be developed in committee.

321—20.9(249D) Resolutions.

20.9(1) Prefiling of resolutions. Four resolutions may be prefiled by each AAA delegation.

20.9(2) Consideration of resolutions. Proposed resolutions will be considered by the resolutions committee.

a. Committees may refer assigned bills to the resolutions committee for consideration. Committees shall submit desired resolution wording.

b. Resolutions suggested by committees shall be considered by the resolutions committee.

c. Only resolutions approved by majority vote of the resolutions committee will be sequentially numbered and reported for action to the general OIL assembly.

(1) Full OIL action on resolutions shall be by voice vote.

(2) Resolutions are not subject to amendment and may be either accepted or rejected by the majority of OIL delegates voting.

ELDER AFFAIRS DEPARTMENT[321] (cont'd)

321—20.10(249D) Leadership roles.

20.10(1) Election of leadership. Election of OIL leadership will be conducted in May by the department OIL coordinator.

20.10(2) Rules committee. The elected leadership shall constitute a "rules committee" and shall prepare guidelines regulating the conduct of delegates and committees during the session. By the third Monday of August, the guidelines shall be distributed to delegates.

20.10(3) Procedural rules.

a. A ballot listing all nominees for speaker, speaker pro tempore, and floor leader will be prepared by the department and made available at the election site. Candidates for the offices will be given an opportunity to campaign prior to the balloting.

b. Successful candidates must receive a majority of 50 percent plus 1 of the votes cast. If run-off balloting is required, the candidate(s) with the fewest votes will be removed from consideration on the next successive ballot.

c. There shall be no nominations from the floor at the election of leadership.

d. Robert's Rules of Order, as amended, will be used to decide all issues pertaining to the election of leadership which are not specifically covered in these rules.

20.10(4) Leadership vacancies. In the event that a leadership vacancy occurs prior to the start of the session, the immediate runner-up in the final balloting will be appointed by the department to fill the vacancy.

20.10(5) Teleconference. A teleconference meeting convened by the department on the last Monday of July will be held with the elected leaders to appoint chairpersons for committees from among the nominees submitted by the area delegations and approve assignment of delegates to committees.

321—20.11(249D) The OIL session.

20.11(1) Parts of the session. The annual session of OIL will consist of four parts:

- a. Orientation to the capitol building and equipment;
- b. Committee work sessions;
- c. Floor debate on bills and resolutions reported from committees; and
- d. Prioritization of bills passed by the full OIL membership.

20.11(2) Presiding officers. The presiding officers shall be the speaker, speaker pro tempore, and floor leader. The officers are responsible for maintaining order and decorum during the session. They will meet with the committee chairpersons, prior to the start of the session, to establish a calendar of activities.

20.11(3) Lobbyists. Lobbyists provide valuable information to delegates and will be permitted to make their presence known in the model legislature. Any person wishing to discuss legislation being considered by a committee during the session must make arrangements with the appropriate committee.

[Filed 3/31/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9803**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission adopts amendments to Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

The Commission adopts by reference recently promulgated federal regulations pertaining to new source performance standards and emission standards for hazardous air pollutants and includes, as facilities affected by these standards, additional source or pollutant categories.

In order to prevent new air pollution problems, by section 111(b)(1)(A) of the Clean Air Act, the Administrator of the Environmental Protection Agency(EPA) was required to publish a list of categories of major sources that cause or contribute significantly to air pollution which may reasonably be anticipated to endanger health or welfare. Regulations establishing standards of performance for new sources within each category were promulgated and have been adopted by reference by the Department. Each standard of performance establishes allowable emission limitations that reflect the degree of emission limitation which is achievable through the application of the best technological system of continuous emission reduction. These regulations apply only to "new sources," that is, sources, the construction, reconstruction, or modification of which is commenced after the proposal date of the individual rule. The rules are adopted by reference by subrule 23.1(2).

Similarly, by Section 112 of the Clean Air Act the EPA was required to adopt emission standards for "hazardous air pollutants," those pollutants which cause or contribute to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness. These standards apply to new and existing sources and are adopted by reference by subrule 23.1(3).

In greater detail, the following amendments are adopted:

Item 1 amends subrule 23.1(2) by including, as federal regulations adopted by reference, those regulations pertaining to 40 C.F.R. Part 60 which have been promulgated through January 29, 1988. Part 60, which sets forth federal standards of performance for new stationary sources, is amended by adding the new source categories specifically adopted herein and by amending various emission standards and testing methods. Furthermore, the Department adopts, by reference, amendments to standards of performance for industrial-commercial-institutional steam generating units (subpart Db), 23.1(2)"ccc." This pertains to facilities constructed, modified or reconstructed after June 19, 1984, and 1986.

Item 1 further amends subrule 23.1(2) by adding, as facilities specifically affected by the standards of performance for new stationary sources, the following types of facilities: rubber tire manufacturing and surface coating plastic parts for business machines.

Item 2 amends subrule 23.1(3) by including, as federal regulations adopted by reference, those regulations

ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)

pertaining to 40 C.F.R. Part 61 which have been promulgated through March 19, 1987. Part 61, which sets forth emission standards for hazardous air pollutants, is amended by the addition of two new source categories. Facilities in these source categories which are affected by this amendment are primary copper smelters and glass manufacturing plants.

These amendments appeared as a Notice of Intended Action, **ARC 9583**, in the Iowa Administrative Bulletin published on January 11, 1989. There were no comments on the proposed amendments, and these amendments are identical to those published as **ARC 9583**.

These rules are intended to implement Iowa Code section 455B.133.

These rules will become effective on May 24, 1989.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [amendments to 23.1(2) and 23.1(3)] is being omitted. These rules are identical to those published under Notice as **ARC 9583**, IAB 1/11/89.

[Filed 3/30/89, effective 5/24/89]
[Published 4/19/89]

[For replacement pages for IAC, see IAC Supplement, 4/19/89.]

ARC 9811**JOB SERVICE DIVISION[345]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 96.11, the Commissioner of the Division of Job Service hereby adopts amendments to Chapter 3, "Employer's Contribution and Charges," Chapter 4, "Claims and Benefits," Chapter 5, "Benefit Payment Control," Chapter 6, "Appeals Procedure," Iowa Administrative Code.

These rules are identical to those published under Notice of Intended Action in the Iowa Administrative Bulletin, February 22, 1989, as **ARC 9687**.

Subrule 3.2(2) is amended because all employers are required by law to file quarterly tax reports listing wages paid to their employees. This rule merely states that the employer's quarterly tax report shall be considered as prima facie evidence that the wages shall be considered as paid in the quarter in which the wages were listed on the quarterly report.

Rule 3.36(96) is amended as the rule says that an employer who has wind down wages must have a new account number with a new account rate. However, wages paid after the date of the sale that are earned before the date of sale are not considered to be wind down wages unless they are paid in a different calendar year.

Subrule 3.43(4)"c" is amended to change "and" to "or" and merely means that an individual would receive either Form 65-5323 or Form 60-0186, but not both forms.

Subrule 4.2(1)"g" is amended to specify the earliest and latest dates by which an individual must submit a continued claim for unemployment benefits form to the division and what must be contained in that form.

Rule 4.13(96) is amended as it deals with payments which are made by an employer to an individual claiming unemployment benefits and the deductibility of those payments. More specifically, this rule describes the

procedures for deducting such payments from unemployment benefits as well as describes those payments which are deductible and those payments which are nondeductible from an individual's weekly unemployment benefit amount.

Rule 4.14(96) is rescinded as it deals with the deductibility of a payment of excused personal leave from an individual's unemployment benefits and its content is placed in rule 4.13(96) which deals with deductible and nondeductible payments from an individual's unemployment benefits.

Subrule 4.16(3) is amended so that whenever the employer fails to designate the vacation period, the vacation pay deduction shall apply to the first and succeeding normal workdays of the employer and is restricted to the first workweek starting on the first day immediately following the last day worked.

Subrule 5.13(3) is amended because original warrants which are found will be returned to the Benefit Payment Control Section, if a stop payment order has been placed on the warrant.

Subrule 6.3(1) is amended because the definition of hearing officer is changed to mean administrative law judge in accordance with Iowa Code section 17A.11.

These rules were adopted by the Director of the Department of Employment Services on March 31, 1989, and will become effective May 24, 1989.

These rules are intended to implement Iowa Code sections 96.3, 96.3(3), 96.5, 96.5(1), 96.5(5), 96.5(7), 96.6(1), 96.7, 96.8(1), 96.8(4)"a," 96.8(5).

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [amendments to chs 3, 4, 5, and 6] is being omitted. These rules are identical to those published under Notice as **ARC 9687**, IAB 2/22/89.

[Filed 3/31/89, effective 5/24/89]
[Published 4/19/89]

[For replacement pages for IAC, see IAC Supplement, 4/19/89.]

ARC 9796**PERSONNEL DEPARTMENT[581]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Personnel Commission hereby adopts amendments to Chapter 4, "Pay"; Chapter 14, "Leave"; Chapter 15, "Benefits"; Chapter 16, "Political Activity"; and Chapter 20, "Equal Employment Opportunity and Affirmative Action," appearing in the Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 8, 1989, as **ARC 9650**. The Iowa Personnel Commission adopted these amendments on March 28, 1989, following a public hearing on March 23, 1989.

Revisions to Chapter 4 are necessary to provide clarity when setting pay increase eligibility dates.

Revisions to Chapter 14 correct wording relating to the maximum accrual of converted sick leave and holiday pay. A new subrule provides for pay and expenses for state employees who serve on committees, boards, or commissions.

PERSONNEL DEPARTMENT[581] (cont'd)

The amendment to Chapter 15 exempts attorneys' fees paid by the state pursuant to workers' compensation benefit awards from being used as an offset to state long-term disability benefits.

The revision to Chapter 16 clarifies those few circumstances when it is not appropriate to wear political buttons.

The revision to Chapter 20 provides a time frame for informing the Director of alleged employment discrimination complaints.

Following consideration of comments received, changes to rules published under Notice are as follows:

Rule 581—14.13(19A) was amended to make it consistent with Iowa Code section 49.109.

Minor revisions were made to language submitted in rule 581—14.18(19A) and subrules 4.5(2) and 20.6(2).

These rules are intended to implement Iowa Code chapter 19A.

These rules will become effective May 26, 1989.

The following amendments are adopted:

ITEM 1. Amend rule 581—4.5(19A) as follows:

Amend subrule 4.5(2), paragraph "b," subparagraph (1), second unnumbered paragraph, to read as follows:

Minimum periods of service for pay increase eligibility for employees paid from a pay plan provided for in subrule 4.1(2), paragraphs "b" and "c," shall be 52 weeks, except that *new employees, including persons who are reinstated, with probationary status and as well as employees who receive a pay increase as a result of a promotion, reclassification, or a class or pay plan change regardless of the salary paid are promoted,* are eligible for their first pay increase after 26 weeks, *or as provided in subrule 4.5(4), paragraph "a," regardless of the salary paid at the time of the appointment or promotion. except as provided elsewhere in these rules.*

Amend subrule 4.5(8), paragraph "e," subparagraph (1), to read as follows:

(1) If the employee receives an increase in pay in accordance with paragraph "b" of at least one step or 5 percent or in accordance with paragraph "c" or "d" of this subrule, a new pay increase eligibility date shall be set. *An employee who does not receive at least one step or 5 percent shall retain the current eligibility date, except that if the period of time until the employee's eligibility date exceeds the period of time required for progression, a new pay increase eligibility date shall be set.*

Amend subrule 4.5(10), introductory paragraph, to read as follows:

4.5(10) Pay upon reclassification. When a position is reclassified, the employee's pay *and pay increase eligibility date* shall be set in accordance with these rules governing pay upon promotion, demotion, or transfer, whichever is applicable. *An increase in pay given as a result of a reclassification shall establish a new pay increase eligibility date.*

ITEM 2. Amend subrule 14.3(4) to read as follows:

14.3(4) There is no *limitation limit* on the accumulation of sick leave. An employee who is eligible for vacation and sick leave benefits, and who has accrued 240 hours of sick leave may elect to accrue additional vacation in lieu of the normal monthly sick leave accrual. The conversion shall be on the basis of one hour of vacation for three hours of sick leave, for each full month when sick leave is not used during that month. *The An employee's maximum amount of additional accrued vacation accrual*

may be increased under this subrule *up to shall be* 96 hours.

ITEM 3. Amend subrule 14.8(4) to read as follows:

14.8(4) When the holiday falls on an overtime-covered employee's scheduled workday, ~~but and~~ the employee does not get the day off, the employee shall be compensated for the holiday *in accordance with subrule 14.8(1) to a maximum of eight (8) hours* in addition to a premium rate for time worked. The premium rate shall be paid for hours worked between 12:01 a.m. and 12:00 p.m. on the holiday. However, hours compensated at the premium rate shall not be counted as part of the ~~forty (40) hours for when determining calculating overtime eligibility pay.~~

When the holiday falls on an overtime-covered employee's day off, the employee shall be compensated for the holiday to a maximum of eight (8) hours.

Compensation for holidays under this subrule shall be either in pay or compensatory leave. The decision to pay or grant compensatory leave shall be made by the appointing authority.

ITEM 4. Amend rule 581—14.13(19A) to read as follows:

581—14.13(19A) **Voting leave.** An employee, who is eligible to vote in a public election in the state of Iowa, may request time off from work with regular pay for a period not to exceed ~~two (2) three~~ hours for the purpose of voting. Leave shall be granted only *if to the extent that the employee's work hours do not allow a period of three (3) hour consecutive hours period* outside the employee's scheduled work hours during which the voting polls are open.

A request for voting leave must be made to the appointing authority on or before the employee's last scheduled ~~workday shift~~ prior to election day. The time ~~during the day~~ to be taken off shall be designated by the appointing authority.

ITEM 5. The following new rule is adopted:

581—14.18(19A) **Service on committees, boards, and commissions.** State employees who are appointed to serve on committees, boards, commissions, or similar appointments for Iowa state government shall be entitled to regular compensation for such service. Employees shall be paid in accordance with these rules for time spent.

Pursuant to Iowa Code section 79.1 employees shall not be entitled to additional compensation for such service.

Employees shall have actual and necessary expenses paid.

Employees shall notify the appointing authority at the time of the appointment.

ITEM 6. Subrule 15.4(4), previously filed emergency and included in the Notice for these rules, was amended to read as follows:

15.4(4) Employees who receive benefits under the state's workers' compensation program shall have those benefits, except for benefits designated as medical costs pursuant to Iowa Code section 85.27 and that portion of benefits paid as attorneys' fees approved pursuant to Iowa Code section 86.39, deducted from any state long-term disability benefits received where the workers' compensation injury or illness was a substantial contributing factor to the award of long-term disability benefits.

PERSONNEL DEPARTMENT[581] (cont'd)

ITEM 7. Add the following new subrule:

16.1(6) Wearing political buttons when coming in contact with the public in the course of carrying out job responsibilities, or the wearing of political buttons that would constitute a safety concern.

ITEM 8. Amend subrule 20.6(2) to read as follows:

20.6(2) An agency shall provide information to the director concerning all complaints filed against the agency concerning ~~about~~ alleged employment discrimination within five working days following receipt of the complaint when requested by the director.

[Filed 3/29/89, effective 5/26/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9809

PROFESSIONAL LICENSURE
DIVISION[645]

BOARD OF OPTOMETRY EXAMINERS

Adopted and Filed

Pursuant to the authority of Iowa Code section 258A.3, the Board of Optometry Examiners hereby amends Chapter 180, "Board of Optometry Examiners," Iowa Administrative Code.

The rules amend the requirements for reinstatement of optometry license and fee, require licensees who have allowed their license to lapse to reinstate, add as an unethical business practice sexual contact with patients, and add a new rule for the purpose of listing the requirements for each prescription drug order.

Notice of Intended Action was published in the Iowa Administrative Bulletin, January 11, 1989, as ARC 9577. The only changes from the Notice of Intended Action were to add new paragraph "g" to subrule 180.200(1), and to clarify hours of continuing education required in subrule 180.12(5), paragraph "d." The rules were adopted by the Board of Optometry Examiners on March 30, 1989.

The rules are intended to implement Iowa Code sections 147.10, 147.11, 147.80, 154.3, 155A.27, 258A.2, and 258A.3.

These rules will become effective on May 24, 1989.

ITEM 1. Amend subrule 180.10(5), add the following new subrule 180.10(6), and renumber 180.10(6) as 180.10(7) and amend as follows:

180.10(5) Fee for reinstatement of a license to practice optometry is \$100. *If a license is not renewed within 30 days after the expiration date, a penalty fee of \$100 will be required in addition to renewal of the license fee.*

180.10(6) Penalty fee, in addition to the renewal fee, for failure to complete the continuing education by the end of the continuing education period is \$200.

180.10(6)180.10(7) Fee for a certificate for a each branch office is \$10. Biennial renewal fee for a each branch office certificate is \$20.

ITEM 2. Amend subrule 180.12(5) to read as follows:

180.12(5) *Failure to renew within 60 days shall cause the license to lapse. In case of an emergency which prohibited timely renewal by the licensee, disciplinary*

actions may be waived at the discretion of the board after an interview with the licensee. A person who allows the license to lapse may apply to the board for reinstatement of the license. Applicants to be considered for reinstatement shall complete a reinstatement application, satisfy Iowa requirements for continuing education study hours for each year the Iowa license was not renewed, pay renewal fees for each year the Iowa license was not renewed, and pay the reinstatement fee as provided by rule 645—180.10(147). Reinstatement of the lapsed license may be granted by the board if the applicant:

a. *Submits a written application for reinstatement to the board; and*

b. *Pays all of the renewal fees then due; and*

c. *Pays all penalty fees which have been assessed by the board for failure to renew; and*

d. *Provides evidence of satisfactory completion of continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 25 for therapeutically certified optometrists or 15 for nontherapeutically certified optometrists by the number of years (or quarterly fraction thereof) since the license lapsed. If the license has lapsed for more than five years, the applicant shall be reexamined and show evidence of successfully passing the Iowa state optometry license examination with a passing grade on the reexamination.*

ITEM 3. Amend subrule 180.112(8) to read as follows:

180.112(8) Unethical practice of optometry business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying patient's records.

d. *Any sexual intimidation or sexual relationship between an optometrist and a patient.*

ITEM 4. Adopt new rule 645—180.200(155A) to read as follows:

645—180.200(155A) Prescription drug orders. Each prescription drug order furnished in this state by a therapeutically certified optometrist shall meet the following requirements:

180.200(1) Written prescription drug orders shall contain:

a. The date of issuance;

b. The name and address of the patient for whom the drug is dispensed;

c. The name, strength, and quantity of the drug, medicine, or device prescribed;

d. The directions for use of the drug, medicine, or device prescribed;

e. The name, address, and written signature of the practitioner issuing the prescription;

f. The federal drug enforcement administration number, if required under Iowa Code chapter 204; and

g. The title "Therapeutically Certified Optometrist" by the name of the practitioner issuing the prescription.

180.200(2) The practitioner issuing oral prescription drug orders shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

[Filed 3/31/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9804
REVENUE AND FINANCE
DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Finance hereby adopts amendments to Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 22, 1989, as **ARC 9684**.

The 1988 Iowa Acts, chapter 1243, changed the definition of "replacement parts" applicable to the farm machinery and equipment exemption. For farm machinery or equipment which is a self-propelled implement, customarily drawn or attached to such an implement or a grain dryer, prior to July 1, 1988, a replacement part was any part depreciable for state and federal income tax purposes. On or after July 1, 1988, a "replacement part" is any part essential to repair or reconstruction necessary to the farm machinery's or equipment's exempt use in agricultural production. The Department rule applicable to farm machinery and equipment which is a self-propelled implement, etc., is accordingly amended. Also amended is the Department's rule regarding industrial machinery and equipment, since that rule contains a reference to the farm machinery and equipment rule which is no longer appropriate in light of the changed meaning of the term "replacement parts."

These rules are identical to those published under Notice of Intended Action.

These rules will become effective May 24, 1989.

These amendments are intended to implement Iowa Code subsection 422.45(26).

The following amendments are adopted:

ITEM 1. Amend subparagraph 18.44(1)"b"(4) as follows:

(4) A replacement part for any item described in subparagraph (1), (2) or (3) which is depreciable for state and federal income tax purposes.

ITEM 2. Amend paragraph 18.44(2)"g" as follows:

g. Replacement parts, differing meanings of the term for the period ending June 30, 1988, and for the period beginning July 1, 1988.

(1) For the period beginning July 1, 1985, and ending June 30, 1988, a replacement part is refundable or exempt only if its cost is depreciable for state and federal income tax purposes. Replacement parts which are depreciable for state and federal income tax purposes include only those replacement parts which either materially add to the value of machinery or equipment or appreciably prolong its life. Replacement parts which only keep the machinery or equipment in its ordinarily efficient operating condition are not eligible for exemption or refund. Included within the meaning of replacement parts is any part the cost of which is depreciable for state and federal income tax purposes but which may also be deducted as a current expense. So long as the cost is depreciable the sale or lease of the replacement part is eligible for refund or exemption from tax. However, the person claiming the refund or exemption must show that the replacement part which was deducted as an expense

could have been depreciated under state and federal income tax law.

(2) On and after July 1, 1988, the sale or lease of a replacement part is exempt from tax if the replacement part is essential to any repair or reconstruction necessary to farm machinery's or equipment's exempt use in the production of agricultural products. The term "replacement part" does not include attachments and accessories which are not essential to the operation of the farm machinery or equipment. Nonexclusive examples of attachments or accessories are: cigarette lighters, radios, and add-on air conditioning units.

ITEM 3. Amend subrule 18.45(1) by adding in alphabetical sequence, the following definition:

"Replacement parts." Replacement parts which are depreciable for state and federal income tax purposes include only those replacement parts which either materially add to the value of industrial machinery, equipment, or computers or appreciably prolong their lives. Replacement parts which only keep machinery, equipment, or computers in their ordinarily efficient operating condition are not eligible for exemption. Included within the meaning of replacement parts is any part the cost of which is depreciable for state and federal income tax purposes but which may also be deducted as a current expense. So long as the cost is depreciable the sale or lease of the replacement part is eligible for exemption from tax. However, the person claiming the exemption must show that the replacement part which was deducted as an expense could have been depreciated under state and federal income tax law.

ITEM 4. Amend subrule 18.45(5) as follows:

18.45(5) Replacement parts and lessor Lessor purchases of specified property. The analysis contained in rule 18.44(422,423) regarding lessor purchases of farm machinery and equipment is applicable to explain those that same problems problem regarding specified property. See the following subrules subrule 18.44(3) for analysis of the following matters:

1. Replacement parts — subrule 18.44(2)"g."
2. Lessor purchases — subrule 18.44(3)"a."

[Filed 3/31/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9795

TRANSPORTATION
DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Department of Transportation, on March 21, 1989, adopted amendments to 761—Chapter 620, "OWI and Implied Consent," Iowa Administrative Code.

A Notice of Intended Action for these amendments was published in the February 8, 1989, Iowa Administrative Bulletin as **ARC 9633**.

The definition of "previous six years" is being rescinded because the term has been defined by the Iowa Supreme Court in Shriver vs. the Iowa Department of Transportation (October 19, 1988).

TRANSPORTATION DEPARTMENT[761] (cont'd)

The second amendment explains the types of decisions the Director may make in a contested case appeal.

These amendments are identical to the ones published under Notice except that the words "of transportation" were added to subrule 620.4(2) for clarity.

These amendments are intended to implement Iowa Code chapter 321J.

These amendments will become effective May 24, 1989.

Rule-making actions:

ITEM 1. Amend rule 761—620.1(321J) by deleting the definition of "previous six years."

ITEM 2. Amend subrule 620.4(2), paragraph "e," as follows:

e. The director of the office of driver services shall forward the appeal to the director of transportation. *The director of transportation may affirm, modify or reverse the decision of the administrative law judge, or may remand the case to the administrative law judge.*

[Filed 2/23/89, effective 5/24/89]

[Published 4/19/89].

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.

ARC 9801

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 476.2 and 17A.4, the Utilities Board (Board) gives notice that on March 30, 1989, the Board issued an order in Docket No. RMU-88-17, In Re: Notice To Transportation Customers, "Order Adopting Rules."

On September 30, 1988, the Board issued an order in this docket commencing the rule making to consider a new subrule, 19.13(6), requiring gas utilities to provide written disclosures to customers of the risks associated with gas transportation. The proposed rule making was published in the Iowa Administrative Bulletin on October 19, 1988, as **ARC 9373**. In order to allow for public comment on the proposed rules, a deadline of November 11, 1988, was set for written comments. Comments were received from the Office of Consumer Advocate, Division of the Department of Justice, Peoples Natural Gas Company (Peoples), Midwest Gas Company (Midwest Gas), Iowa-Illinois Gas and Electric Company (Iowa-Illinois), Monsanto Chemical Company, and the Iowa Association of Municipal Utilities. The commenters were all in general support of the rule making but recommended specific changes and requested clarification on several points.

Midwest Gas recommended that the Board require end users using less than 200 Mcf per day to certify that they have alternate fuel capability adequate to indefinitely sustain operations. The Board will not accept this recommendation. Transportation is available on a nondiscriminatory basis and the Board does not have the jurisdiction to require end users to have alternate fuel capability. An end user may choose to take such a risk. Midwest Gas also suggested the notice be expanded to include additional risks. The rule provides

an illustrative list of risks not intended to be exhaustive. Midwest Gas and all utilities may tailor their notices to include additional risks. Finally, Midwest Gas recommended the Board reconsider its filing requirement of notices and acknowledgments and consider a summary. The Board will not accept this recommendation.

Iowa-Illinois had several recommendations and requests for clarification. First, Iowa-Illinois asked in its comments if the rules would be applied retroactively. The rules will apply prospectively. The notice requirement will apply to customers seeking transportation after the effective date of the rule. Second, Iowa-Illinois requested clarification on whether the notice format or content requires approval by the Board prior to its use. No approval will be required. Iowa-Illinois also suggested that the notice be provided only to transportation customers who elect to transport with less than 100 percent system reserve since the impact of purchasing 100 percent reserve is to place the transportation customers in essentially the same position as sales customers. The Board agrees with Iowa-Illinois and will limit the applicability of the rules to customers who elect to transport with less than 100 percent system reserve. Third, Iowa-Illinois suggested that the proposed rule be expressly limited to risks reasonably known at the time of notice and asks that the notice be limited to the nature of penalties and costs rather than quantity. These changes will also be made. Finally, Iowa-Illinois recommended that the rule not require the utility to give notice of how its gas will be priced. The notice should include this information.

Peoples Natural Gas proposed the notice provide there are risks associated with transporting gas but requested the language requiring customers to be notified of all the risks be modified. The Board acknowledges Peoples' concern and has modified the language to require notice of risks reasonably known at the time of notice.

The Board will adopt the proposed subrule with the changes as set forth above. The new subrule will be effective on May 24, 1989.

Add new subrule 19.13(6) as follows:

19.13(6) Written notice of risks. A customer contracting for transportation service with less than 100 percent system reserve shall be notified in writing by the utility of the risks reasonably known at the time of the notice to be associated with transporting gas. These risks include, but are not limited to, the risk that the utility may not have firm or interruptible service available if the customer seeks to purchase from the utility, the nature of any identifiable penalties, the nature of any administrative or reconnection costs the customer will incur if the customer seeks firm or interruptible status, and notice of how gas will be priced if the utility has gas available to serve a transportation customer. The notice may be through a contract provision, addendum to the contract or separate written instrument. The customer must acknowledge in writing that it has been made aware of the risks and accepts the risks. The notice and the acknowledgment shall be filed with the board within 30 days of execution.

[Filed 3/30/89, effective 5/24/89]

[Published 4/19/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 4/19/89.



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 38

WHEREAS, employees of the State of Iowa are a most valuable resource to the citizens they serve and the State as an employer; and

WHEREAS, the use of illegal drugs or abuse of controlled substances or alcohol in the workplace is detrimental to the State's employees; and

WHEREAS, employees have the right to work in a drug-free environment and to work with persons free from the effects of drugs and alcohol; and

WHEREAS, drug and alcohol abuse in the workplace interferes with and reduces the operational efficiency of state government and undermines the public's trust in its functions; and

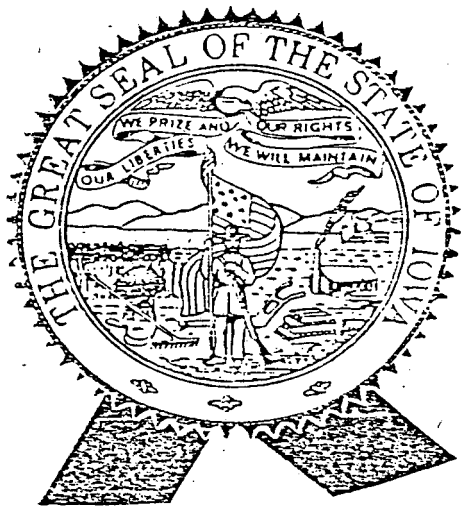
WHEREAS, the State of Iowa is committed to maintaining a workplace free from the influences of drugs and alcohol.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa and in support of our continuing efforts to ensure a drug-free workplace for all employees of the State of Iowa, do hereby order and institute the following policy regarding substance abuse and the unlawful possession of controlled substances on the employer's premises:

- I. Employees are expected and required to report to work on time and in appropriate mental and physical condition for work. It is the State of Iowa's intent and obligation to provide a drug-free work environment.

- II. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on the employer's premises or while conducting the employer's business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.
- III. The State recognizes drug and alcohol dependency as illnesses and a major health problem. The State also recognizes drug and alcohol abuse as a potential health, safety and security problem. Employees needing help in dealing with such problems are encouraged to use our employee assistance program. Conscientious efforts to seek such help will not jeopardize an employee's job.
- IV. In order to comply with the Drug Free Workplace Act of 1988, employees are required to report any conviction under a criminal drug statute for violations occurring on the employer's premises or off the employer's premises while conducting state business. A report of a conviction must be made to the employee's supervisor or other appropriate official within five (5) days after the conviction.
- V. Compliance with the terms and reporting requirements of this policy is required as a condition of employment for all employees.

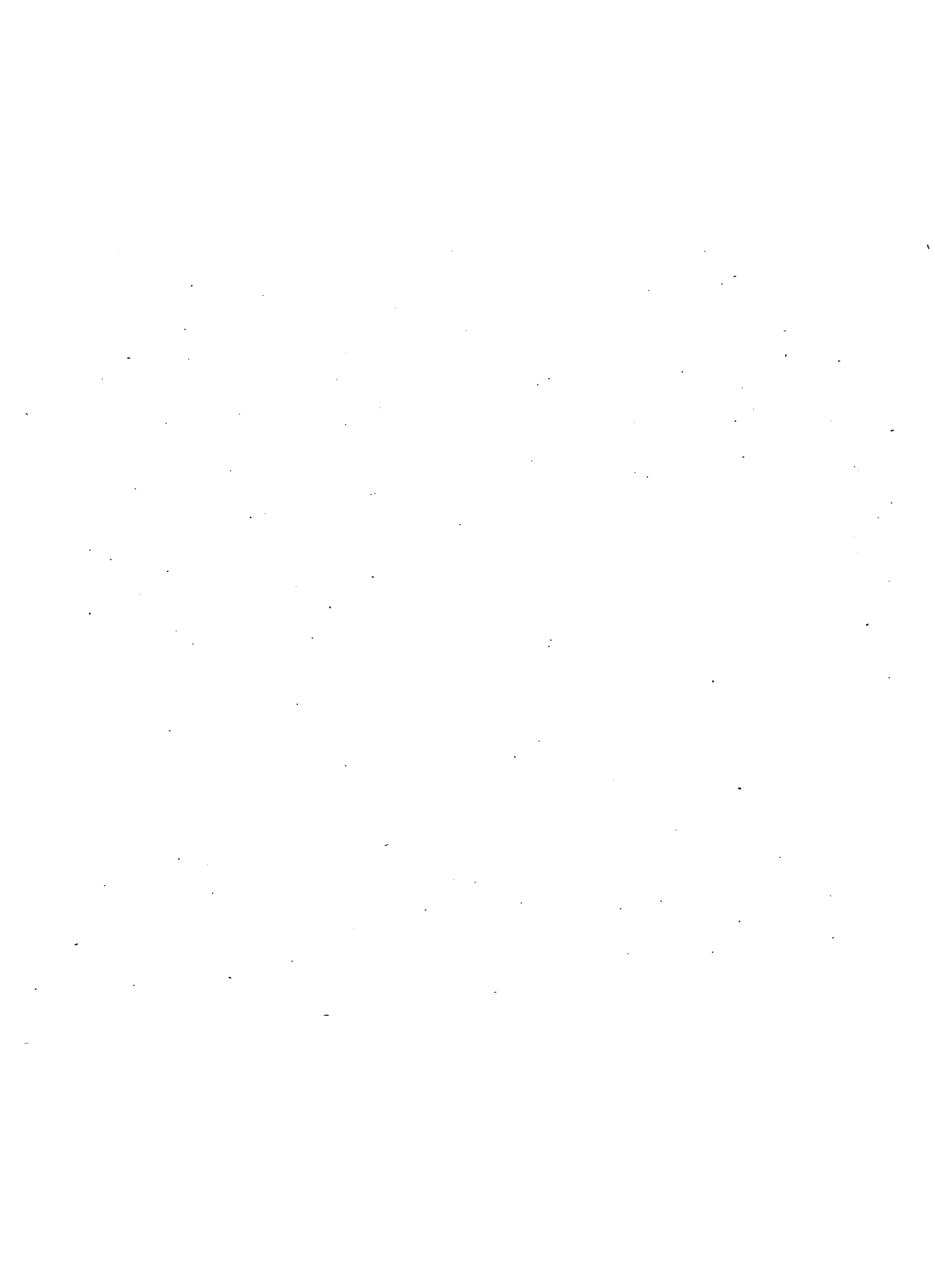
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 17th day of March in the year of our Lord one thousand nine hundred and eighty-nine.



ATTEST:

Elaine Baxter
SECRETARY OF STATE

Tommy E. Brandstad
GOVERNOR



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