



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

KATHLEEN K. WEST, Administrative Code Editor  
STEPHANIE A. HOFF, Deputy Editor

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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

- 441 IAC 79 (Chapter)
- 441 IAC 79.1(249A) (Rule)
- 441 IAC 79.1(1) (Subrule)
- 441 IAC 79.1(1)“a” (Paragraph)
- 441 IAC 79.1(1)“a”(1) (Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

## Schedule for Rule Making 2007

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 27 '06*</b>	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sept. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sept. 24
Mar. 23	Apr. 11	May 1	May 16	<b>***May 16***</b>	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	June 15	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	<b>***June 27***</b>	July 18	Aug. 22	Nov. 19
<b>***May 16***</b>	June 6	June 26	July 11	July 13	Aug. 1	Sept. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sept. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
<b>***June 27***</b>	July 18	Aug. 7	Aug. 22	<b>***Aug. 22***</b>	Sept. 12	Oct. 17	Jan. 14 '08
July 13	Aug. 1	Aug. 21	Sept. 5	Sept. 7	Sept. 26	Oct. 31	Jan. 28 '08
July 27	Aug. 15	Sept. 4	Sept. 19	Sept. 21	Oct. 10	Nov. 14	Feb. 11 '08
Aug. 10	Aug. 29	Sept. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '08
<b>***Aug. 22***</b>	Sept. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 10 '08
Sept. 7	Sept. 26	Oct. 16	Oct. 31	Nov. 2	Nov. 21	Dec. 26	Mar. 24 '08
Sept. 21	Oct. 10	Oct. 30	Nov. 14	<b>***Nov. 14***</b>	Dec. 5	Jan. 9 '08	Apr. 7 '08
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '08	Apr. 21 '08
Oct. 19	Nov. 7	Nov. 27	Dec. 12	<b>***Dec. 12***</b>	Jan. 2 '08	Feb. 6 '08	May 5 '08
Nov. 2	Nov. 21	Dec. 11	Dec. 26	<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 20 '08	May 19 '08
<b>***Nov. 14***</b>	Dec. 5	Dec. 25	Jan. 9 '08	Jan. 11 '08	Jan. 30 '08	Mar. 5 '08	June 2 '08
Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
<b>***Dec. 12***</b>	Jan. 2 '08	Jan. 22 '08	Feb. 6 '08	Feb. 8 '08	Feb. 27 '08	Apr. 2 '08	June 30 '08
<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 9, 2007	February 28, 2007
19	Friday, February 23, 2007	March 14, 2007
20	Friday, March 9, 2007	March 28, 2007

PLEASE NOTE:

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.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

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The Administrative Rules Review Committee will hold a special meeting on Friday, February 2, 2007, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

**NOTE: See also Agenda published in the January 17, 2007, Iowa Administrative Bulletin.**

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Definition of “employee”; contract administration, 168.302, 168.401, 168.402, Notice **ARC 5689B** ..... 1/31/07

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Permit exemption for mobile agricultural and construction internal combustion engines, 22.1(2)“nn,” Notice **ARC 5694B** ..... 1/31/07

Regional haze—sources subject to best available retrofit technology (BART) requirements, 22.9(1) to 22.9(7), Notice **ARC 5695B** ..... 1/31/07

Statewide ambient air quality standards, 28.1, Notice **ARC 5692B** ..... 1/31/07

**HISTORICAL DIVISION[223]**

CULTURAL AFFAIRS DEPARTMENT[221]“umbrella”

State historical society of Iowa, 21.2, 21.3(2)“a” and “c” to “e,” 21.3(3)“a” and “b,” 21.3(3)“c”(1) and (3) to (5), 21.3(3)“d,” 21.3(4)“a” and “c” to “e,” 21.3(5), 21.3(6), Notice **ARC 5696B** ..... 1/31/07

**HUMAN SERVICES DEPARTMENT[441]**

Family-centered child welfare services; family-preservation supportive and nonrehabilitative treatment services; family-centered services, adopt ch 172; rescind chs 181, 182, Notice **ARC 5699B** ..... 1/31/07

Staff qualifications for family-centered parental counseling and education service providers, 182.5(4)“b” and “c,” Notice **ARC 5672B** ..... 1/31/07

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

Organization of division, ch 1, Filed **ARC 5697B** ..... 1/31/07

Filing of insurance policy rates and forms, 5.9, 20.1, 20.2, 20.4, 20.5, 20.9, 20.10, 30.5, 31.3(1), 31.3(2), 34.5, 35.7(1) to 35.7(6), 36.11, 37.13(1), 39.26(2), Notice **ARC 5698B** ..... 1/31/07

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Federal safety and health regulations—adoption by reference, 10.4, 10.20, 26.1, Filed **ARC 5674B** ..... 1/31/07

Professional boxing and shoot fighting—blood-borne disease testing, 173.54, 177.5(11), Filed **ARC 5690B** ..... 1/31/07

**NATURAL RESOURCES DEPARTMENT[561]**

Rules of practice in contested cases, ch 7, Filed **ARC 5693B** ..... 1/31/07

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Cosmetology arts and sciences, 64.2(1), 64.3(2)“g,” Filed **ARC 5688B** ..... 1/31/07

Optometry, 180.5(5), 181.2(1)“b,” 181.3(2)“b” and “c,” 181.3(2)“c”(3), Filed **ARC 5691B** ..... 1/31/07

**PUBLIC HEALTH DEPARTMENT[641]**

Surveillance of communicable and infectious diseases—issuance of investigatory subpoenas, 1.4(5), 1.12(4)“f,” Filed **ARC 5676B** ..... 1/31/07

Radiation, amendments to chs 38 to 42, 44, 46, Notice **ARC 5682B** ..... 1/31/07

Local public health services; Iowa senior health program, rescind chs 79, 80, 83; adopt ch 80, Notice **ARC 5683B** ..... 1/31/07

Prescription drug donation repository program, ch 109, Filed **ARC 5675B** ..... 1/31/07

Public health response teams, ch 113, Filed **ARC 5677B** ..... 1/31/07

Medical examiners, 126.4, 127.1, 127.2(3), 127.3(7), Filed **ARC 5678B** ..... 1/31/07

Testing fees for emergency medical care candidates for certification, 131.4(1)“k,” Filed **ARC 5679B** ..... 1/31/07

Love our kids grant, 141.1 to 141.3, 141.3(2), 141.3(3), 141.3(5), 141.4, 141.5(1), Filed **ARC 5680B** ..... 1/31/07

**PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**

New designation for neonatal intensive care units, 150.1, 150.2, 150.4"2" and "3," 150.9 to 150.11,  
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 Licensure standards for problem gambling treatment programs, ch 162, Notice **ARC 5684B** ..... 1/31/07

**REVENUE DEPARTMENT[701]**

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 Property assessment, 71.1(1), 71.3, 71.26, 80.3(10), Filed **ARC 5685B** ..... 1/31/07

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

Iowa Veterans home, amendments to ch 10, Filed **ARC 5673B** ..... 1/31/07

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2007.**

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**Administrative Rules Coordinator**  
 Governor's Ex Officio Representative  
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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Entrepreneurial ventures assistance program—eligibility, 60.2, 60.3(3) IAB 1/17/07 <b>ARC 5662B</b>	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	February 6, 2007 10 a.m.
Contract administration; definition of “employee,” 168.302, 168.401, 168.402 IAB 1/31/07 <b>ARC 5689B</b>	Northeast 2nd Floor Conf. Rm. 200 E. Grand Ave. Des Moines, Iowa	February 20, 2007 2 p.m.
Renewable fuel infrastructure program contract administration, 314.5 IAB 1/17/07 <b>ARC 5671B</b> (See also <b>ARC 5663B</b> )	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	February 6, 2007 4 to 5 p.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Controlling pollution—permitting exemption, 22.1(2)“nn” IAB 1/31/07 <b>ARC 5694B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	March 5, 2007 2 p.m.
Controlling pollution—regional haze regulations, 22.9 IAB 1/31/07 <b>ARC 5695B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	March 2, 2007 10 a.m.
Ambient air quality—statewide standards, 28.1 IAB 1/31/07 <b>ARC 5692B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	March 5, 2007 1 p.m.
Liquid manure land application limit, 65.17, 65.112 IAB 1/3/07 <b>ARC 5636B</b>	Coralville Public Library 1401 Fifth St. Coralville, Iowa	February 6, 2007 5 p.m.
	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	February 7, 2007 1 p.m.
	Meeting Room Carroll County Courthouse 114 E. 6th St. (Hwy 30) Carroll, Iowa	February 8, 2007 10 a.m.
Financial assurance for sanitary landfills, amendments to chs 103 to 106, 112, 114, 115, 118, 120 to 123 IAB 1/3/07 <b>ARC 5633B</b>	Fifth Floor West Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	March 28, 2007 10 a.m. to 12 noon
<b>HISTORICAL DIVISION[223]</b>		
State historical society of Iowa, 21.2, 21.3 IAB 1/31/07 <b>ARC 5696B</b>	Tone Board Rm., 3rd Floor West Historical Building 600 E. Locust St. Des Moines, Iowa	February 20, 2007 10 a.m.



**HUMAN SERVICES DEPARTMENT[441]**

Family-centered child welfare services, adopt ch 172; rescind chs 181, 182 IAB 1/31/07 <b>ARC 5699B</b>	Conference Room 102 City View Plaza 1200 University Ave. Des Moines, Iowa	February 21, 2007 8:30 a.m.
	1st Floor Board Room Scott Co. Administrative Ctr. 600 W. 4th St. Davenport, Iowa	February 21, 2007 9 to 10 a.m.
	3rd Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa	February 21, 2007 9:30 a.m.
	Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	February 21, 2007 10 a.m. to 12 noon
	ICN Room Pottawattamie Co. DHS 417 E. Kanessville Blvd. Council Bluffs, Iowa	February 21, 2007 1 p.m.
	Large Conference Room Johnson Co. DHS 911 N. Governor St. Iowa City, Iowa	February 22, 2007 1 p.m.
	Conference Rm. A, 1st Floor Trosper-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	February 23, 2007 9 a.m.
	Second Floor Conference Rm. Story Co. Human Services Bldg. 126 S. Kellogg St. Ames, Iowa	February 23, 2007 11 a.m. to 12 noon
	Conference Room Wapello Co. DHS 120 E. Main St. Ottumwa, Iowa	February 23, 2007 11 a.m.

**INSURANCE DIVISION[191]**

Filing of insurance policy rates and forms, amendments to chs 5, 20, 30, 31, 34 to 37, 39 IAB 1/31/07 <b>ARC 5698B</b>	330 Maple St. Des Moines, Iowa	February 20, 2007 10 a.m.
Multiple employer welfare arrangements—independent contractors, 77.12 IAB 1/17/07 <b>ARC 5668B</b>	Insurance Division Offices 330 Maple St. Des Moines, Iowa	February 13, 2007 10 a.m.

**PUBLIC HEALTH DEPARTMENT[641]**

<p>Radiation, amendments to chs 38 to 42, 44, 46 IAB 1/31/07 <b>ARC 5682B</b></p>	<p>4th Floor Conf. Rm 415, Side 2 Lucas State Office Bldg. Des Moines, Iowa</p>	<p>February 22, 2007 8 a.m.</p>
<p>Local public health services, chs 79, 80, 83 IAB 1/31/07 <b>ARC 5683B</b> <b>(ICN Network)</b></p>	<p>Room 303 Miller State Office Bldg. East 12th and Grand Ave. Des Moines, Iowa</p>	<p>February 20, 2007 10 to 11 a.m.</p>
	<p>Rm. 13, Iowa Lakes Comm. College 2111 Hwy. 169 North Algona, Iowa</p>	<p>February 20, 2007 10 to 11 a.m.</p>
	<p>Rm. 7B, Information Technology Ctr. Buena Vista University – 2 610 W. 4th St. Storm Lake, Iowa</p>	<p>February 20, 2007 10 to 11 a.m.</p>
	<p>Matilda J. Gibson Memorial Library 200 W. Howard St. Creston, Iowa</p>	<p>February 20, 2007 10 to 11 a.m.</p>
	<p>Southern Prairie AEA 15-1 2814 N. Court St. Ottumwa, Iowa</p>	<p>February 20, 2007 10 to 11 a.m.</p>
	<p>Suite 400, DHS 411 3rd St. SE Cedar Rapids, Iowa</p>	<p>February 20, 2007 10 to 11 a.m.</p>
	<p>Heiserman Annex West Union Community Library 210 N. Vine St. West Union, Iowa</p>	<p>February 20, 2007 10 to 11 a.m.</p>
<p>Licensure standards for problem gambling treatment programs, ch 162 IAB 1/31/07 <b>ARC 5684B</b> <b>(ICN Network)</b></p>	<p>ICN Conference Rm., 6th Floor Lucas State Office Bldg. 321 East 12th St. Des Moines, Iowa</p>	<p>February 20, 2007 9 to 11 a.m.</p>
	<p>Kelinson Rm., Information Ctr. Bettendorf Public Library 2950 Learning Campus Dr. Bettendorf, Iowa</p>	<p>February 20, 2007 9 to 11 a.m.</p>
	<p>Dept. of Human Services 417 E. Kaneshville Blvd. Council Bluffs, Iowa</p>	<p>February 20, 2007 9 to 11 a.m.</p>
	<p>Fort Dodge Public Library 424 Central Ave. Fort Dodge, Iowa</p>	<p>February 20, 2007 9 to 11 a.m.</p>
	<p>West Delaware High School 701 New St. Manchester, Iowa</p>	<p>February 20, 2007 9 to 11 a.m.</p>

**PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**

Rm. 106, Careers Building N. Iowa Area Comm. College – 1 500 College Dr. Mason City, Iowa	February 20, 2007 9 to 11 a.m.
Sioux City Public Library 529 Pierce St. Sioux City, Iowa	February 20, 2007 9 to 11 a.m.
Spencer Public Library 21 E. Third St. Spencer, Iowa	February 20, 2007 9 to 11 a.m.
Pinecrest Office Bldg. Dept. of Human Services 1407 Independence Ave. Waterloo, Iowa	February 20, 2007 9 to 11 a.m.
Rm. 331, Trustee Hall Southeastern Comm. College – 2 1500 W. Agency West Burlington, Iowa	February 20, 2007 9 to 11 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Motor carrier safety and hazardous materials regulations, 520.1(1) IAB 1/17/07 <b>ARC 5655B</b>	DOT Conference Room Park Fair Mall Des Moines, Iowa	February 8, 2007 10 a.m. (If requested)
Rail assistance program; railroad revolving loan fund, rescind chs 830, 831 IAB 1/17/07 <b>ARC 5656B</b>	First Floor South Conference Rm. 800 Lincoln Way Ames, Iowa	February 8, 2007 10 a.m. (If requested)

**UTILITIES DIVISION[199]**

Filing of line and pole replacement data, 20.18(7), 25.3 IAB 12/20/06 <b>ARC 5612B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	February 7, 2007 10 a.m.
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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 small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 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]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 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 Bureau[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]  
     Real Estate Appraiser Examining Board[193F]  
     Interior Design Examining Board[193G]  
   Savings and Loan Division[197]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
   Arts Division[222]  
   Historical Division[223]  
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
   City Development Board[263]  
   Grow Iowa Values Board[264]  
   Iowa Finance Authority[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ELDER AFFAIRS DEPARTMENT[321]  
 EMPOWERMENT BOARD, IOWA[349]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 HUMAN RIGHTS DEPARTMENT[421]  
   Community Action Agencies Division[427]  
   Criminal and Juvenile Justice Planning Division[428]  
   Deaf Services Division[429]  
   Persons With Disabilities Division[431]  
   Latino Affairs Division[433]  
   Status of African-Americans, Division on the[434]  
   Status of Women Division[435]  
 HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

## ARC 5689B

ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 168, “Additional Program Requirements,” Iowa Administrative Code.

The proposed amendments establish for all non-Grow Iowa Values Fund (GIVF) and tax credit program awards a contract-signing deadline that is similar to the deadline described in subrule 2.5(2) for all GIVF awards. Subrule 2.5(2) requires that a recipient sign a contract with the Department within 120 days of the award date. The amendments also add the Enterprise Zone program to the existing rule that establishes a standard definition of “employee” for purposes of state financial assistance programs.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on February 20, 2007. Interested persons may submit written or oral comments by contacting Melanie Johnson, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

A public hearing to receive comments about the proposed amendments will be held on February 20, 2007, at 2 p.m. at the above address in the Northeast 2nd Floor Conference Room.

These amendments are intended to implement Iowa Code chapters 15 and 17A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 261—168.302(15) as follows:

**261—168.302(15) Applicability.** The definition of the term “employee” described in this division is applicable to the high quality job creation program (HQJCP) (261—Chapter 68), the value-added agricultural products and processes financial assistance program (VAAPFAP) (261—Chapter 57), the community economic betterment *account* (CEBA) program (261—Chapter 53), the entrepreneurial ventures assistance (EVA) program (261—Chapter 60), the targeted small business financial assistance program (TSBFAP) (261—Chapter 55), the physical infrastructure assistance program (PIAP) (261—Chapter 61), the brownfield redevelopment program (261—Chapter 65), the *enterprise zone (EZ) program* (261—Chapter 59), and all other state financial assistance programs administered by the department, including all programs receiving funding from the *grow* Iowa values fund.

ITEM 2. Amend 261—Chapter 168 by adding the following **new** Division VI:

DIVISION VI  
CONTRACT ADMINISTRATION

**261—168.401(15) Contract-signing deadline.** Successful applicants will be required to execute an agreement with the department within 120 days of the department’s or board’s approval of an award. Failure to do so may result in action by the entity that approved the award (the department or the board) to rescind the award. The 120-day time limit may be extended by the entity that approved the award (the department or the board) for good cause shown.

**261—168.402(15) Applicability.** The 120-day contract-signing requirement described in this division is applicable to the high quality job creation program (HQJCP) (261—Chapter 68), the enterprise zone (EZ) program (261—Chapter 59), the value-added agricultural products and processes financial assistance program (VAAPFAP) (261—Chapter 57), the community economic betterment account (CEBA) program (261—Chapter 53), the entrepreneurial ventures assistance (EVA) program (261—Chapter 60), the targeted small business financial assistance program (TSBFAP) (261—Chapter 55), the physical infrastructure assistance program (PIAP) (261—Chapter 61), the brownfield redevelopment program (261—Chapter 65), and all other state financial assistance programs administered by the department, including all programs receiving funding from the grow Iowa values fund.

These rules are intended to implement Iowa Code chapters 15 and 17A.

## ARC 5694B

ENVIRONMENTAL PROTECTION  
COMMISSION[567]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, “Controlling Pollution,” Iowa Administrative Code.

The purpose of this rule making is to list additional equipment for which no construction permit is required because of low emissions of regulated air pollutants.

Between July 2006 and September 2006, the Department and representatives from the Iowa-Nebraska Equipment Dealers Association, Ziegler Cat, Cessford Construction, the Iowa Limestone Producers Association, equipment manufacturers such as John Deere & Company and Vermeer Manufacturing, and the University of Northern Iowa Air Emissions Assistance Program met three times to discuss permitting considerations related to emissions from agricultural and construction equipment repair facilities and dealerships. When agricultural and construction equipment with internal combustion engines is operated on or off road, it is not required to be permitted. When this equipment is serviced at a repair facility or dealership, the emissions from the equipment when operated inside the facility are frequently vented through a vent or stack. These facilities are consid-

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ered stationary sources by definition, and the Department has the authority through the construction permitting process to regulate the emissions from the facilities.

The Department has historically not sought construction permit applications for emission points at agricultural and construction equipment repair facilities and dealerships that are only exhausting emissions from mobile internal combustion engines. The Department reviewed the technical validity of exempting emissions from agricultural and construction equipment mobile internal combustion engines at repair facilities and dealerships from the requirement to obtain a construction permit. Based on emissions and operating information obtained from the workgroup, the Department is proposing that emissions from agricultural and construction equipment mobile internal combustion engines at non-major repair facilities and dealerships be exempted from the requirement to obtain a construction permit. This amendment is expected to have little or no environmental or human health consequences.

All construction permitting exemptions apply only to the requirement to obtain an air construction permit. The owner or operator of a facility retains the obligation to determine whether other air quality requirements apply to exempted equipment or processes, and if such obligations exist, to meet those.

The proposed amendment to subrule 22.1(2) adds a new paragraph "nn" that exempts emissions from agricultural and construction mobile internal combustion engines that are operated for repair or maintenance purposes at equipment repair shops and equipment dealerships that are not major sources as defined in rule 567—22.100(455B).

Any person may make written suggestions or comments on the proposed amendment on or before March 9, 2007. Written comments should be directed to Jim McGraw, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515) 242-5094; or by electronic mail to [jim.mcgraw@dnr.state.ia.us](mailto:jim.mcgraw@dnr.state.ia.us).

A public hearing will be held on March 5, 2007, at 2 p.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at the public hearing. All comments must be received no later than March 9, 2007.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Jim McGraw at (515) 242-5167 to advise of any specific needs.

This amendment is intended to implement Iowa Code section 455B.133.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **22.1(2)** by adopting **new** paragraph "**nn**" as follows:

nn. Emissions from mobile agricultural and construction internal combustion engines that are operated only for repair or maintenance purposes at equipment repair shops or equipment dealerships, and only when the repair shops or equipment dealerships are not major sources as defined in rule 567—22.100(455B).

## ARC 5695B

### ENVIRONMENTAL PROTECTION COMMISSION[567]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 455B.133(2), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution," Iowa Administrative Code.

Previous federal regulations addressed visibility impairment attributable to specific sources near Class I areas and in Class II areas. Class I areas include national parks and wilderness areas while Class II areas are areas where businesses and industries are located. The 1999 federal Regional Haze Regulations address visibility impairment resulting from air pollution transported hundreds of miles and attributable to the cumulative emissions from widely distributed sources. Regional haze is visibility impairment caused by tiny particles that absorb and scatter sunlight, giving the sky a veil of white and brown haze.

The federal Regional Haze Regulations are mandated by the federal Clean Air Act (Clean Air Act, Section 169(a), as codified in 40 CFR 51.301, 51.308). The Department must comply with the Regional Haze Regulations by December 2007.

The amendments included in this Notice of Intended Action are the second part of a two-part rule making. The Department previously amended Chapter 22 (**ARC 4061B**, Iowa Administrative Bulletin, March 16, 2005) to specify the criteria and process for an owner or operator of a major stationary source to provide information necessary for the Department to identify sources of air pollution potentially subject to the Best Available Retrofit Technology (BART) emission control requirements established by the federal Regional Haze Regulations. Due to a lack of certainty regarding aspects of the unfinalized federal guidelines for the BART provisions of the Regional Haze Regulations, the Department proposed a two-part rule-making process.

This rule making establishes the process by which the Department will notify the owner or operator of a stationary source of air pollution whether the source is BART-eligible and whether the source needs to perform a BART analysis. This rule making defines the criteria that establish a BART source's contribution to regional haze. The Department will use these criteria as a basis for requiring a BART-eligible source to perform a BART analysis. The Department has met with a group of representatives from potential BART-eligible sources regarding the BART requirements and the time line required by the federal regulations for implementation.

This rule making also establishes a notification process for purposes of the federal Regional Haze Regulations. The initial regional haze implementation plan is due in December 2007. Every five years thereafter, a periodic review must be completed, and every ten years thereafter, a comprehensive revision is required. The Department will continue to work with stakeholders and regional planning partners as the Department works toward meeting regional haze goals.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Item 1 establishes definitions.

Item 2 adopts a modified list of stationary source category criteria for BART-eligible boilers. Previously, the criteria applied to one or more boilers that total more than 250 million Btu's per hour of combined heat input. The new BART criteria regulate boilers that individually total 250 million Btu's per hour heat input.

Item 3 specifies the Department's responsibility to notify source owners or operators of the requirements for the submission of a BART analysis if such an analysis is requested by the Department. Item 3 also outlines the additional analyses and control requirements for stationary sources that may be requested by the Department during state implementation plan development and the periodic reviews and updates required by the federal Regional Haze Regulations.

Any person may make written suggestions or comments on the proposed amendments on or before March 5, 2007. Written comments should be directed to Wendy Rains, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515) 242-5094; or by electronic mail to [wendy.rains@dnr.state.ia.us](mailto:wendy.rains@dnr.state.ia.us).

A public hearing will be held on March 2, 2007, at 10 a.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at the public hearing. All comments must be received no later than March 5, 2007.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Wendy Rains at (515) 281-6061 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 455B.133(2).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 567—22.9(455B) by renumbering subrules **22.9(1)** and **22.9(2)** as **22.9(2)** and **22.9(3)**, respectively, and adopting the following **new** subrule:

**22.9(1)** Definitions. Definitions included in this subrule apply to the provisions set forth in rule 567—22.9(455B).

"Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Deciview" means a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on an equation found in 40 CFR 51.301, as amended on July 1, 1999.

"Mandatory Class I area" means any Class I area listed in 40 CFR Part 81, Subpart D, as amended through October 5, 1989.

ITEM 2. Amend renumbered subrules 22.9(2) and 22.9(3) as follows:

**22.9(2)** Best available retrofit technology (BART) applicability. Sources A source shall comply with the provisions of subrule 22.9(2) (3) if ~~the sources fall~~ *the source falls* within numbers 1 through 26 ~~20 or 22 through 26~~ of the "stationary source categories" of air pollutants listed in rule 22.100(455B) *or is a fossil-fuel fired boiler individually totaling more than 250 million Btu's per hour heat input and if they meet* meets the following criteria:

a. Any emission unit *for which* startup began after August 7, 1962; and

b. Construction of the emission unit commenced on or before August 7, 1977; and

c. The sum of the potential to emit, as "potential to emit" is defined in 567—20.2(455B), from emission units identified above is equal to or greater than 250 tons per year or more of one of the following pollutants: nitrogen oxides, sulfur dioxide, particulate matter (PM<sub>10</sub>), or volatile organic compounds.

**22.9(3)** Duty to self-identify. The owner or operator or designated representative of a facility meeting the conditions of subrule 22.9(1) (2) shall submit two copies of a completed BART Eligibility Certification Form #542-8125. The BART Eligibility Certification Form #542-8125 shall include all information necessary for the department to complete eligibility determinations. The information submitted shall include source identification, description of processes, potential emissions, emission unit and emission point characteristics, date construction commenced and date of startup, and other information required by the department. The completed form ~~shall be~~ *was required to be* submitted to the Air Quality Bureau, Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, by September 1, 2005.

ITEM 3. Adopt the following **new** subrules:

**22.9(4)** Notification. The department shall notify in writing the owner or operator or designated representative of a source of the department's determination that either:

a. A source meets the conditions listed in 22.9(2) (a source that meets these conditions is BART-eligible); or

b. For the purposes of the regional haze program, a source may cause or contribute to visibility impairment in any mandatory Class I area, as identified during either:

(1) Regional haze plan development required by 40 CFR 51.308(d) as amended on July 6, 2005; or

(2) A five-year periodic review on the progress toward the reasonable progress goals required by 40 CFR 51.308(g) as amended on July 6, 2005; or

(3) A ten-year comprehensive periodic revision of the implementation plan required by 40 CFR 51.308(f) as amended on July 6, 2005.

**22.9(5)** Analysis. The department may request in writing an analysis from the owner or operator or designated representative of a source that the department has determined may be causing or contributing to visibility impairment in a mandatory Class I area.

a. BART control analysis. For the purposes of BART, a source that is responsible for an impact of 1.0 deciview or more at a mandatory Class I area is considered to cause visibility impairment. A source that is responsible for an impact of 0.5 deciview or more at a mandatory Class I area is consid-



## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ered to contribute to visibility impairment. If a source meets either of these criteria, the owner or operator or designated representative shall prepare the BART analysis in accordance with Section IV of Appendix Y of 40 CFR Part 51 as amended through July 5, 2005, and shall submit the BART analysis 180 days after receipt of written notification by the department that a BART analysis is required.

b. Regional haze analysis. The owner or operator or designated representative of a source subject to 22.9(4)“b” shall prepare and submit an analysis after receipt of written notification by the department that an analysis is required.

**22.9(6) Control technology implementation.** Following the department's review of the analysis submitted pursuant to 22.9(5), an owner or operator of a source identified in 22.9(4) shall:

a. Submit all necessary permit applications to achieve the emissions requirements established following the completion of analysis performed in accordance with 22.9(5).

b. Install, operate, and maintain the control technology as required by permits issued by the department.

**22.9(7) BART exemption.** The owner or operator of a source subject to the BART emission control requirements may apply for an exemption from subrule 22.9(5) in accordance with 40 CFR 51.303 as amended on July 1, 1999.

**ARC 5692B****ENVIRONMENTAL PROTECTION  
COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 455B.133(3), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 28, “Ambient Air Quality Standards,” Iowa Administrative Code.

The purpose of the proposed amendment is to adopt into the state air quality rules revisions made by the U.S. Environmental Protection Agency (EPA) to federal ambient air quality standards for particulate matter.

The proposed amendment changes rule 567—28.1(455B) by citing the Federal Register notice and corresponding Federal Register page numbers and promulgation date for the revisions made by EPA to the national primary and secondary ambient air quality standards, as published in 40 Code of Federal Regulations (CFR) Part 50 on October 17, 2006.

These revisions addressed fine particulate matter 2.5 micrometers in diameter and smaller (PM<sub>2.5</sub>), and inhalable coarse particulate matter which is 10 micrometers and smaller in diameter (PM<sub>10</sub>). EPA strengthened the 24-hour PM<sub>2.5</sub> standard from the 1997 level of 65 micrograms per cubic meter of air to 35 micrograms per cubic meter of air and retained the current annual PM<sub>2.5</sub> standard at 15 micrograms per cubic meter of air. EPA also retained the existing 24-hour PM<sub>10</sub> standard of 150 micrograms per cubic meter of air but revoked the annual PM<sub>10</sub> standard.

The Department will be required to make PM<sub>2.5</sub> attainment or nonattainment designations by November 2007.

EPA will review the Department's designations and make its own PM<sub>2.5</sub> designations by November 2009. The EPA designations will become final in April 2010. The PM<sub>10</sub> standard is currently being attained statewide, and no redesignations will be necessary.

The Department is proposing this amendment at this time to allow the Department's air construction permitting and air dispersion modeling staff to modify their review procedures for PM<sub>10</sub>. Because EPA revoked the annual PM<sub>10</sub> standard, it is no longer necessary to conduct air dispersion modeling or set air construction permit limits for this standard. Iowa statute does not allow state air quality rules to be more stringent than federal regulations.

Any person may make written suggestions or comments on the proposed amendment on or before March 9, 2007. Written comments should be directed to Jim McGraw, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515) 242-5094; or by electronic mail to [jim.mcgraw@dnr.state.ia.us](mailto:jim.mcgraw@dnr.state.ia.us).

A public hearing will be held on March 5, 2007, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at the public hearing. All comments must be received no later than March 9, 2007.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Jim McGraw at (515) 242-5167 to advise of any specific needs.

This amendment is intended to implement Iowa Code section 455B.133.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 567—28.1(455B) as follows:

**567—28.1(455B) Statewide standards.** The state of Iowa ambient air quality standards shall be the National Primary and Secondary Ambient Air Quality Standards as published in 40 Code of Federal Regulations Part 50 (1972) and as amended at 38 Federal Register 22384 (September 14, 1973), 43 Federal Register 46258 (October 5, 1978), 44 Federal Register 8202, 8220 (February 9, 1979), 52 Federal Register 24634-24669 (July 1, 1987), and 62 Federal Register 38651-38760, 38855-38896 (July 18, 1997), and 71 Federal Register 61144-61233 (October 17, 2006). The department shall implement these rules in a time frame and schedule consistent with implementation schedules in federal laws, regulations and guidance documents.

This rule is intended to implement Iowa Code section 455B.133.

**ARC 5696B****HISTORICAL DIVISION[223]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 303.1 and 303.1A, the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Chapter 21, "Membership in the Society," Iowa Administrative Code.

The proposed amendments modify the award programs of the State Historical Society of Iowa. Specifically, the amendments rename the Throne/Aldrich Award to be the Mildred Throne/Charles Aldrich Award and expand that award to articles published in professional historical journals such as *The Annals of Iowa*; rename the Petersen/Harlan Award to be the William J. Petersen/Edgar Harlan Award; create a George Mills/Louise Noun Award for articles published in a popular history periodical; modify the composition of the award review committees; and clarify the processes for nomination, notification of award recipients and presentation of awards.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on February 20, 2007. Interested persons may submit written or oral comments by contacting Kathy Gourley, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)282-0502; E-mail [kathy.gourley@iowa.gov](mailto:kathy.gourley@iowa.gov). Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515) 281-6913.

Also, there will be a public hearing on February 20, 2007, at 10 a.m. at the above address in the Tone Board Room, Third Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 303.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 223—21.2(303) as follows:

**223—21.2(303) Fees.** Fees are charged for benefits and services provided to members. The membership program is administered by the Iowa Historical Foundation, P.O. Box 6250 600 East Locust Street, Des Moines, Iowa 50309 50319, telephone (515)281-8452 8823.

ITEM 2. Amend paragraph 21.3(2)"a" as follows:

a. *William J. Petersen/Edgar Harlan award Award.* This award recognizes an individual, group, or organization that has made significant long-term or continuing contributions

to Iowa history. No more than one award shall be given annually.

ITEM 3. Amend paragraph 21.3(2)"c" as follows:

c. *Mildred Throne/Charles Aldrich award Award.* This award recognizes the author of the most significant article on Iowa history in a society publication *a professional history journal* during the previous calendar year. ~~Two awards The board may give one award shall be given annually. One for the Iowa Heritage Illustrated and one for the Annals of Iowa.~~ *Two Up to two* certificates of recognition may also be awarded ~~from each publication.~~

ITEM 4. Reletter paragraph 21.3(2)"d" as 21.3(2)"e" and adopt the following new paragraph 21.3(2)"d":

d. *George Mills/Louise Noun Award.* This award recognizes the author of the most significant illustrated article on an Iowa history topic published in a popular history periodical during the previous calendar year. The board may give one award annually. Up to two certificates of recognition may also be awarded.

ITEM 5. Amend relettered paragraph 21.3(2)"e" as follows:

e. *Benjamin F. Shambaugh award Award.* This award recognizes the author of the most significant book published on Iowa history during the previous calendar year. ~~One award shall be given annually. The board may give one award annually.~~ *Two Up to two* certificates of recognition may also be awarded.

ITEM 6. Amend paragraphs 21.3(3)"a" and "b" as follows:

a. ~~Committees. Two committees shall be appointed by the~~ *The chairperson of the society board of trustees shall appoint awards committees* at the first meeting of the board held in each fiscal year. The nonvoting staff member on each committee shall be appointed by the administrator of the society to coincide with the other committee appointments. The term of office shall be one year.

(1) *William J. Petersen/Edgar Harlan and Loren Horton awards committee.* Nominations for these categories shall be reviewed by ~~a nominating an awards committee composed of, at a minimum, three voting members, including at least one member of the general public, five members of the society board of trustees, and.~~ *The committee shall also include* one staff member of the society serving in a nonvoting capacity.

(2) *Mildred Throne/Charles Aldrich, George Mills/Louise Noun and Benjamin F. Shambaugh committee awards committees.* Nominations for these categories shall be reviewed by ~~a nominating committee composed of awards committees composed of, at a minimum, three voting members, including at least two faculty members from Iowa colleges, one member of the general public, one member of the professional staff of a county or local historical organization or museum, one member of the society board of trustees, and.~~ *The committees shall also include* one staff member of the society serving in a nonvoting capacity.

b. *Period of eligibility.* Awards in the *Mildred Throne/Charles Aldrich, George Mills/Louise Noun, Benjamin F. Shambaugh, and Loren Horton* categories shall be made for activities and publications produced during the calendar year prior to the nomination.

ITEM 7. Amend subparagraph 21.3(3)"c"(1) as follows:

(1) *William J. Petersen/Edgar Harlan award Award.* The public may nominate entries for the *William J. Petersen/Edgar Harlan* award by mail. Nominators shall submit the

## HISTORICAL DIVISION[223](cont'd)

name and address of the nominee and a detailed description of significant long-term or continuing contributions to Iowa history. Nominations shall *must* be postmarked by February 1 and shall *must* be submitted to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. *Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: [www.iowahistory.org](http://www.iowahistory.org).*

ITEM 8. Amend subparagraph **21.3(3)“c”(3)** as follows:

(3) *Mildred Throne/Charles Aldrich award Award. Articles published in society publications are automatically nominated for the Throne/Aldrich award. The public may nominate articles for the Mildred Throne/Charles Aldrich Award by mail. Nominators shall submit the title of the article, name of author, name and address of publication, and year of publication to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: [www.iowahistory.org](http://www.iowahistory.org).*

ITEM 9. Reletter subparagraph **21.3(3)“c”(4)** as **21.3(3)“c”(5)** and adopt the following **new** subparagraph **21.3(3)“c”(4)**:

(4) George Mills/Louise Noun Award. The public may nominate articles for the George Mills/Louise Noun award by mail. Nominators shall submit the title of the article, name of author, name and address of publication, and year of publication to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: [www.iowahistory.org](http://www.iowahistory.org).

ITEM 10. Amend relettered subparagraph **21.3(3)“c”(5)** as follows:

(5) Benjamin F. Shambaugh award Award. The public may nominate entries for the Shambaugh award by mail. Nominators shall submit the title of the book, name and address of author, name and address of publisher, and year of publication to the Administrator Editor, *The Annals of Iowa*, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290 402 Iowa Avenue, Iowa City, Iowa 52240-1806. *Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: [www.iowahistory.org](http://www.iowahistory.org).*

ITEM 11. Amend paragraph **21.3(3)“d”** as follows:

d. Number of nominations. The nominating committee award committees shall report no more than three nominations for each award program and category to the society board of trustees for final selection. The award committees shall transmit nominations shall be transmitted to the board at least 10 days prior to the regularly scheduled meeting which permits the board to act 30 days prior to the an annual membership awards meeting.

ITEM 12. Amend paragraph **21.3(4)“a”** as follows:

a. *William J. Petersen/Edgar Harlan award Award.* Nominees shall have contributed a body of work advancing the preservation and interpretation of Iowa history. Each body of work shall be evaluated for significance, professionalism, and influence on Iowans' perceptions of themselves. These criteria shall be weighted equally.

ITEM 13. Amend paragraph **21.3(4)“c”** as follows:

c. *Mildred Throne/Charles Aldrich award Award.* Each nominated article shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

ITEM 14. Reletter paragraph **21.3(4)“d”** as **21.3(4)“e”** and adopt the following **new** paragraph **21.3(4)“d”**:

d. George Mills/Louise Noun Award. Each nominated article shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

ITEM 15. Amend relettered subparagraph **21.3(4)“e”** as follows:

e. Benjamin F. Shambaugh award Award. Each nominated book shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

ITEM 16. Amend subrules 21.3(5) and 21.3(6) as follows:

**21.3(5)** Notification. Award recipients shall be notified by mail from the administrator of the society at least 21 days prior to the an annual membership awards meeting.

**21.3(6)** Presentation. The award shall be presented by the chairperson a member of the board of trustees at the an annual membership awards meeting.

**ARC 5699B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 234.6, the Department of Human Services proposes to adopt new Chapter 172, “Family-Centered Child Welfare Services,” and to rescind Chapter 181, “Family-Preservation Supportive and Nonrehabilitative Treatment Services,” and Chapter 182, “Family-Centered Services,” Iowa Administrative Code.

These amendments implement new child welfare service programs to replace the previous family-centered services program. Development of new programs is necessary due to the “delinking” of child welfare and behavioral health services resulting from implementation of Medicaid remedial services (see **ARC 5514B**, published in the Iowa Administrative Bulletin on November 8, 2006), and planned discontinuation of the rehabilitative treatment and supportive services (RTSS) program (see **ARC 5515B**, also published in the Iowa Administrative Bulletin on November 8, 2006).

These amendments replace the existing family-centered services rules in Chapter 182 with a new chapter that implements the following new child welfare service programs:

- Safety monitoring and evaluation programs to keep children safe during the child protective assessment or child in need of assistance assessment process.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- Family safety, risk, and permanency programs to achieve safety, permanency, and well-being for children and families in the child welfare system, regardless of the setting in which the children reside.

- Supportive services, which include family team meeting facilitation, drug testing, and legal services for permanency. These service components are designed to assist children and families in achieving safety, permanency, and well-being.

Providers for these programs will be selected through competitive bidding. The contracts will provide for a portion of the provider's payment to be based on the provider's level of achievement on specified outcome-based performance measures. Specific requirements about provider qualifications, program activities, and provider reimbursement will be published in the requests for proposals and included in the contracts negotiated with the selected providers.

The amendments allow for Department service area managers to use a portion of their child welfare funding allocation to contract for unique child welfare programs tailored to the conditions and circumstances specific to the respective service area.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before February 23, 2007. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

Interested persons may also present their views on these proposed amendments either orally or in writing at the public hearings to be held at the places and times listed below. Anyone who intends to attend a hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of specific needs.

Conference Room 102 City View Plaza 1200 University Avenue Des Moines, Iowa	Wednesday February 21, 2007 8:30 a.m.
First Floor Board Room Scott County Administrative Center 600 W. 4th Street Davenport, Iowa	Wednesday February 21, 2007 9 to 10 a.m.
Third Floor Conference Room Nesler Centre 799 Main Street Dubuque, Iowa	Wednesday February 21, 2007 9:30 a.m.
Room 220 Pinecrest Office Building 1407 Independence Avenue Waterloo, Iowa	Wednesday February 21, 2007 10 a.m. to 12 noon
ICN Room Pottawattamie County Dept. of Human Services 417 E. Kanesville Boulevard Council Bluffs, Iowa	Wednesday February 21, 2007 1 p.m.
Large Conference Room Johnson County Dept. of Human Services 911 N. Governor Street Iowa City, Iowa	Thursday February 22, 2007 1 p.m.

Conference Room A, First Floor Trosper-Hoyt Building 822 Douglas Street Sioux City, Iowa	Friday February 23, 2007 9 a.m.
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Second Floor Conference Room Story County Human Services Building 126 S. Kellogg Street Ames, Iowa	Friday February 23, 2007 11 a.m. to 12 noon
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Conference Room Wapello County Department of Human Services 120 E. Main Street Ottumwa, Iowa	Friday February 23, 2007 11 a.m.
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These amendments are intended to implement Iowa Code section 234.6.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** 441—Chapter 172 as follows:

## CHAPTER 172

## FAMILY-CENTERED CHILD WELFARE SERVICES

## PREAMBLE

These rules define and describe procedures for delivery of family-centered child welfare services. The rules describe the program definitions and eligibility criteria, provider selection and contracting processes, performance measures, billing and payment methods, procedures for client appeals, and program review and audit procedures.

## DIVISION I

## GENERAL PROVISIONS

**441—172.1(234) Definitions.**

“Child” means a person who meets the definition of a child in Iowa Code section 234.1(2).

“Conditionally safe child” means that a safety concern is identified on Form 470-4132, Safety Assessment/Plan, for which a safety plan is required.

“Department” means the Iowa department of human services.

“Family” means persons who have a blood or legal relationship with the child and persons who have an interest in the child, such as godparents, clan or tribal members, and other persons who have a significant relationship with the child.

“Family safety, risk, and permanency program” means a program that uses strategies and interventions designed to achieve safety and permanency for a child with an open department child welfare case, regardless of the setting in which the child resides.

“Protective capacities” means the family strengths or resources that reduce, control or prevent risks from arising or from having an unsafe impact on a child.

“Provider” means a public or private agency or organization authorized to do business in Iowa that has entered into a contract with the department to provide one or more of the programs defined in this chapter. The provider is also known as the claimant.

“Risk” means the probability or likelihood that a child will experience maltreatment.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

“Safe child” means that there are no present or impending dangers to the child, or that existing dangers are controlled by the caregiver’s protective capacities.

“Safety monitoring and evaluation program” means a program that delivers interventions designed to monitor the safety of a child during the department’s child protective assessment or child in need of assistance assessment process.

“Service area manager” means the department official responsible for managing the department’s programs, operations, and budget within one of the eight department service areas.

**441—172.2(234) Purpose and scope.** Family-centered child welfare programs are designed to achieve safety, permanency, and well-being for children.

**172.2(1)** Family-centered child welfare programs provide interventions and supports for children who have come to the department’s attention because of:

- a. Allegations of child abuse; or
- b. Juvenile court action to adjudicate the child as a child in need of assistance.

**172.2(2)** Family-centered child welfare programs shall be designed to:

- a. Identify and build on the family’s strengths;
- b. Enhance the family’s protective capacities; and
- c. Help the family become connected with community support systems in order to promote greater self-reliance.

**172.2(3)** Family-centered child welfare programs shall utilize evidence-based interventions to the greatest possible extent.

**441—172.3(234) Authorization.** When the department has approved provision of family-centered child welfare services for a child and family, the department worker shall notify the provider by issuing Form 470-3055, Referral and Authorization for Child Welfare Services. The referral form shall indicate:

1. The specific service category authorized (safety monitoring and evaluation; family safety, risk, and permanency; drug testing; family team meeting facilitation; or legal services for permanency); and
2. The duration of the authorization.

**441—172.4(234) Reimbursement.** Billed services that meet the requirements of this chapter shall become a liability of the state. The format and process for submitting billings to the department and for receiving department payments shall be specified in all provider contracts with the department. The department shall process claims for payment promptly upon submission by the provider.

**172.4(1)** The provider shall bear ultimate responsibility for the completeness and accuracy of all billings submitted.

**172.4(2)** The provider shall maintain all financial and service records that are necessary to substantiate the provider’s claims submitted for reimbursement for services provided to department clients as specified in the provider’s contract with the department.

**441—172.5(234) Client appeals.** Clients may appeal the department’s decision pursuant to 441—Chapter 7 when:

1. The client’s application for services as described in this chapter is denied, or
2. The services are reduced or terminated.

**441—172.6(234) Reviews and audits.** Providers of the services described in this chapter shall be subject to review and audit procedures established by the department. Information on these procedures shall be included in the request for pro-

posals and in contracts resulting from the procurement process.

**441—172.7 to 172.9** Reserved.

## DIVISION II

## SAFETY MONITORING AND EVALUATION PROGRAMS

## PREAMBLE

Family-centered safety monitoring and evaluation programs are designed to maintain children safely in their own families whenever possible. These programs use strategies and interventions to monitor and evaluate the safety of children who, during a child protective assessment or during the department’s child in need of assistance assessment process, are assessed to be conditionally safe.

**441—172.10(234) Program requirements.** A provider of safety monitoring and evaluation shall meet the following requirements:

**172.10(1)** The program shall meet the minimum expectations defined in the provider’s contract with the department.

**172.10(2)** The provider shall provide interventions and supports based on the particular service needs identified for each child and family;

**172.10(3)** The provider shall design safety monitoring and evaluation interventions that:

- a. Promote identification and enhancement of family strengths and protective capacities;
- b. Strengthen family connections to community resources and informal supports; and
- c. Are culturally competent and respectful of the family’s cultural, ethnic, and racial identity and values.

**441—172.11(234) Provider selection.** Family-centered safety monitoring and evaluation programs shall be available on a statewide basis and shall be purchased through a formal competitive selection process according to the requirements of 11—Chapters 106 and 107.

**172.11(1)** The department shall issue a request for proposals at the state level to seek applications from organizations interested in providing family-centered safety monitoring and evaluation within specific geographic areas.

**172.11(2)** The request for proposals shall specify:

- a. The minimum qualifications and requirements for consideration as a provider;
- b. The scope of services to be purchased; and
- c. The duration of contracts to be awarded.

**172.11(3)** The department shall select one or more providers within each department service area based on service needs and the number and quality of provider proposals.

**172.11(4)** When multiple providers are selected to serve the same geographic area, the department shall implement a fair and equitable case referral process.

**441—172.12(234) Program eligibility.** Family-centered safety monitoring and evaluation may be provided to a child who, during a child protective assessment or child in need of assistance assessment process, has been assessed by department staff to be conditionally safe.

**441—172.13(234) Program components.**

**172.13(1)** Strategies and interventions. Safety monitoring and evaluation programs shall provide a flexible array of strategies and interventions to:

- a. Monitor, evaluate, and intervene to ensure the child’s safety; and

## HUMAN SERVICES DEPARTMENT[441](cont'd)

b. Evaluate and supplement the protective capacities of the child's caregivers.

**172.13(2)** Program activities. The activities to be provided by safety monitoring and evaluation programs shall be as described in the scope of services section of the request for proposals. At a minimum, a provider of safety monitoring and evaluation shall do all of the following:

- a. Be available 24 hours a day, seven days per week.
- b. Respond to the department worker within one hour after the provider receives a referral call.
- c. Initiate face-to-face contact with the family within 24 hours of the referral from the department worker.
- d. Make daily face-to-face contact with the referred family unless the department worker identifies a different frequency in the safety plan.
- e. Provide an E-mail contact to update the department worker within 24 hours after each contact with the child or family.
- f. Attend all family team meetings held on behalf of the family during the service delivery period.
- g. Respond within two hours to any family crisis during the service delivery period, and update the department worker with an oral or E-mail contact.
- h. Attend court hearings about the child upon request of the court or the department worker.

**172.13(3)** Additional services available. Based on child and family needs and subject to approval by the department worker, a child and family who are receiving safety monitoring and evaluation interventions may also receive the following services, which shall be purchased and funded separately, in addition to the activities listed in subrule 172.13(2):

- a. Drug testing as provided in subrule 172.30(1).
- b. Family team meeting facilitation as provided in subrule 172.30(2).
- c. Legal services for permanency as provided in subrule 172.30(3).
- d. Payment of foster family care maintenance costs under rule 441—156.6(234) if the child is placed in foster family care.
- e. Shelter care payment as provided in 441—subrule 156.11(3) if the child is placed in shelter care.

**441—172.14(234) Monitoring of service delivery.**

**172.14(1)** Case management. During the time a child and the child's family are approved to receive safety monitoring and evaluation, the department worker shall be responsible for providing case management. The department worker shall maintain contact with the family and the family's provider to ensure that factors that present risks to the safety and well-being of children in the family are being adequately addressed.

**172.14(2)** Provider progress reports. A provider of safety monitoring and evaluation shall submit client reports in accordance with the requirements concerning format, content, and frequency that are specified in the provider's contract with the department.

**172.14(3)** Outcome measures. The department shall establish outcome-based performance measures for safety monitoring and evaluation programs. These performance measures shall:

- a. Be specified in each provider's contract with the department; and
- b. Be aligned with the measures defined by the federal government as part of the child and family services review process.

**441—172.15(234) Billing and payment.**

**172.15(1)** Unit of service. Safety monitoring and evaluation shall be delivered based on a 15-calendar-day unit of service with an established per-unit payment rate that shall be specified in each provider's contract. The department worker may purchase up to two units of service for a child and family.

**172.15(2)** Performance-based payments. Contracts for safety monitoring and evaluation may contain provisions under which a portion of the payment to the provider is connected to the provider's level of achievement on specified outcome-based performance measures. Any provisions for performance-based payments shall be described in the department's request for proposals and in provider contracts with the department.

**441—172.16 to 172.19** Reserved.

DIVISION III

FAMILY SAFETY, RISK, AND PERMANENCY PROGRAMS

PREAMBLE

Family safety, risk, and permanency programs provide family-focused interventions and supports to improve parents' capacity to keep their children safe. The purpose of these programs is to achieve safety and permanency for children, regardless of the setting in which the children reside. The outcome may be to maintain children safely within their own families or with relatives, to reunite children safely with their parents or other relatives, or to achieve alternative permanent family connections for the child.

**441—172.20(234) Program requirements.** A family safety, risk, and permanency program shall meet the following requirements:

**172.20(1)** The program shall meet the minimum expectations defined in the provider's contract with the department.

**172.20(2)** The provider shall have flexibility to select interventions and supports based on the particular service needs identified for each child and family.

**172.20(3)** The provider shall:

- a. Identify family strengths and protective capacities;
- b. Build on these strengths in the provider's interventions with children and families;
- c. Participate in family team meetings and court hearings;
- d. Be culturally competent and respectful of the family's cultural, ethnic, and racial identity and values;
- e. Work to connect children and families with community resources and informal support systems to promote family self-reliance;
- f. Use evidence-based models of intervention to the greatest extent possible.

**441—172.21(234) Provider selection.** Family-centered safety, risk, and permanency programs shall be available on a statewide basis and shall be purchased through a formal competitive selection process according to the requirements of 11—Chapters 106 and 107.

**172.21(1)** The department shall issue a request for proposals at the state level to seek applications from organizations interested in providing family safety, risk, and permanency programs within specific geographic areas.

**172.21(2)** The request for proposals shall specify:

- a. The minimum qualifications and requirements for consideration as a provider;
- b. The scope of services to be purchased; and
- c. The duration of contracts to be awarded.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**172.21(3)** The department shall select one or more providers within each department service area based on service needs and the number and quality of provider proposals.

**172.21(4)** When multiple providers are selected to serve the same geographic area, the department shall implement a fair and equitable case referral process.

**441—172.22(234) Program eligibility.** Family safety, risk, and permanency interventions may be provided to a child and to the child's family when the child meets the criteria in subrules 172.22(1) and 172.22(2).

**172.22(1)** The child is eligible for department child welfare services based on:

- a. The child's adjudication as a child in need of assistance; or
- b. The child's placement out of home under the care and supervision of the department; or
- c. Evaluation of the child's age, the findings of a child abuse assessment report, and the family's risk assessment score.

**172.22(2)** The child is in need of services:

- a. To maintain the child's placement within the child's own family or in the home of a relative or other suitable person; or
- b. To reunify the child with the child's birth family or with another relative following placement with a relative or in a foster family, shelter care facility, group care facility, or other placement setting; or
- c. To identify and help the child move toward an alternative permanent family connection.

**441—172.23(234) Program components.**

**172.23(1)** Strategies and interventions. Family safety, risk, and permanency programs shall be designed to deliver a flexible array of strategies and interventions to promote achievement of the goals of child and family safety, risk reduction, and permanency for children. It is expected that:

- a. The specific interventions and supports delivered and service intensity will vary depending on child and family needs identified during the course of the family's child welfare involvement with the department; and
- b. The provider will use evidence-based models of intervention when possible as well as develop creative and innovative program models.

**172.23(2)** Program activities. Specific minimum program standards and expectations for family safety, risk, and permanency programs shall be as described in the scope of services of the request for proposals issued by the department. The provider shall be responsible for meeting identified needs of referred children and families through interventions that may include, but are not limited to, the following:

- a. Assistance and instruction for parents in life skills and household management.
- b. Family functioning assessment.
- c. Crisis intervention response.
- d. Support for a plan of family visits when children are placed out of home, and supervision of visits, if necessary.
- e. Safety checks and supervision to ensure that children are safe within their environments.
- f. Transportation assistance for children and families to access needed services and supports.
- g. Interventions to enhance family functioning skills, which may include interventions and instruction in one or more of the following areas:
  - (1) Communication and social interaction skills.
  - (2) Family relationship enhancement.

(3) Parenting education and behavior management of children.

(4) Consumer education instruction.

(5) Advocacy skill enhancement.

(6) Transitional life skills for adolescents.

h. Activities to help connect the child and family with mental health and substance abuse services and with community resources and informal supports to promote self-reliance.

i. Activities to support the families' participation in services related to mental health, domestic violence, and substance abuse.

j. Family reunification interventions.

k. Permanency planning activities, including help in identifying and achieving alternative permanent family connections for the child.

l. Provision of department-approved tangible supports for children and families with reimbursement from the department for these expenses.

**172.23(3)** Additional services available. Based on child and family needs and subject to approval by the department worker, a child and family who are receiving family safety, risk, and permanency interventions may also be approved to receive the following services, which shall be purchased and funded separately:

- a. Drug testing as provided in subrule 172.30(1).
- b. Family team meeting facilitation as provided in subrule 172.30(2).
- c. Legal services for permanency as provided in subrule 172.30(3).
- d. Foster care maintenance payments under rule 441—156.6(234) if the child is placed in foster family care.
- e. Shelter care payment as provided in 441—subrule 156.11(3) if the child is placed in shelter care.
- f. Group care maintenance and group care child welfare services under rule 441—156.9(234) if the child is placed in group care.
- g. Supervised apartment living maintenance and services under rule 441—156.12(234) if the child is placed in supervised apartment living placement.

**441—172.24(234) Monitoring of service delivery.**

**172.24(1)** Case management. During the time that a child and the child's family are approved to receive family safety, risk, and permanency program interventions, the department worker shall be responsible for maintaining contact with the child and family to ensure that:

- a. The factors that present risks of harm to the safety and well-being of all children in the family are being adequately addressed; and
- b. Services and supports are in place to achieve the child's permanency goal.

**172.24(2)** Provider progress reports. A provider of a family safety, risk, and permanency program shall submit reports on clients receiving services in accordance with the format, content, and frequency requirements as specified in the department's request for proposals and in the provider's contract with the department.

**172.24(3)** Outcome measures. The department shall establish outcome-based performance measures for family safety, risk, and permanency programs. These performance measures shall:

- a. Be specified in department contracts with providers; and
- b. Be aligned with the measures defined by the federal government as part of the child and family services review process.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—172.25(234) Billing and payment.**

**172.25(1)** Unit of service. Family safety, risk, and permanency interventions shall be purchased and delivered based on a calendar month unit of services with an established calendar month payment rate specified in each contract. When services are opened or closed with department worker approval during a month, payment shall be calculated based on the following methodology:

- a. Cases that are open for 1 through 7 days shall be reimbursed at 25 percent of the monthly payment rate.
- b. Cases that are open for 8 through 14 days shall be reimbursed at 50 percent of the monthly payment rate.
- c. Cases that are open for 15 through 21 days shall be reimbursed at 75 percent of the monthly payment rate.
- d. Cases that are open for 22 through 31 days shall be reimbursed at the full monthly payment rate.

**172.25(2)** Performance-based payments. Contracts with family safety, risk, and permanency programs may contain provisions under which a portion of provider payment amounts are connected to the provider's level of outcome-based performance achievement. Any performance-based payment provisions and procedures shall be described in the department's request for proposals and in provider contracts with the department.

**441—172.26 to 172.29** Reserved.

DIVISION IV

FAMILY-CENTERED SUPPORTIVE SERVICES

PREAMBLE

Family-centered supportive child welfare services are specific services that department workers may approve and deliver at various points during the course of a child's and family's involvement with the department's child welfare system to address the children's safety, permanency, and well-being.

**441—172.30(234) Service components.** Family-centered supportive services include the following components:

**172.30(1)** Drug testing. At a minimum, drug testing contractors shall be responsible for the costs associated with all of the following activities:

- a. Collection of samples from adults or children or installation of sweat patches or other drug-testing devices;
- b. Purchasing of collection supplies and devices;
- c. Preservation and documentation of the chain of evidence for collected samples;
- d. Laboratory testing and analysis fees;
- e. Reporting of test results to the referring worker; and
- f. Provision of court testimony, if requested, concerning testing results.

**172.30(2)** Family team meeting facilitation. Meeting facilitation shall:

- a. Be provided in accordance with the department's family team meeting model of practice and family team meeting standards; and
- b. Include activities involved in planning, preparing for, arranging, facilitating, and reporting on a family team meeting for a child welfare case.

**172.30(3)** Legal services for permanency. Payment for legal services shall include:

- a. Providing funding to an attorney for legal services associated with achieving greater permanency for children through either:

- (1) Modification of a child custody order; or

- (2) Creation of a guardianship or adoptive relationship for a child who is residing with a relative or another suitable caretaker; and

- a. Payment of related legal fees, such as filing costs and reporting fees.

**172.30(4)** Service-area-specific programs. A service area manager shall have the authority to use a portion of the child welfare funds allocated to that service area to fund family-centered programs specific to that department service area. Service-area-specific programs shall be designed to:

- a. Address unique child welfare needs within the service area;
- b. Allow flexibility and innovation in intervention approach; and
- c. Promote safety, permanency, and well-being for children.

**441—172.31(234) Provider selection.** Family-centered supportive services shall be purchased through a formal competitive selection process according to the requirements of 11—Chapters 106 and 107. With the exception of service-area-specific programs, family-centered supportive services shall be available on a statewide basis.

**172.31(1)** The department shall issue a separate request for proposals from organizations interested in providing each family-centered supportive service within specific geographic areas. The duration of the contracts resulting from each procurement shall be specified in the request for proposals.

- a. For drug testing and legal services, requests for proposals shall be issued at the state level with the geographic areas to be covered specified in the request.

- b. For family team meeting facilitation and service-area-specific programs, requests for proposals shall be issued at the service area level.

**172.31(2)** The request for proposals shall specify:

- a. The minimum qualifications and requirements for consideration as a provider;
- b. The scope of services to be purchased; and
- c. The duration of contracts to be awarded.

**172.31(3)** The department shall select one or more providers within each department service area based on service needs and the number and quality of provider proposals.

**172.31(4)** When multiple providers are selected to serve the same geographic area, the department shall implement a fair and equitable case referral process.

**441—172.32(234) Service eligibility.** Supportive child welfare services are designed to provide services for children when:

1. The department has initiated a child protective assessment in response to receipt of a report of child maltreatment concerning the child or another child within the same family; or
2. The department has assumed care and supervision of a child placed in out-of-home care; or
3. The department has opened a child welfare service case on the child or family following a child abuse assessment or juvenile court action; or
4. A child in need of assistance petition has been filed on behalf of the child and the court has set a date for the pre-hearing conference or adjudication hearing.

**441—172.33(234) Monitoring of service delivery.**

**172.33(1)** Case management. When the department approves a child and family to receive one or more family-centered supportive service components, the child's department worker shall be responsible for providing case management. Case management shall include maintaining contact



## HUMAN SERVICES DEPARTMENT[441](cont'd)

with the child, the family, and the provider to ensure that approved services:

- a. Are delivered in a manner that will be most effective; and
- b. Are helping to achieve identified goals and objectives.

**172.33(2)** Provider progress reports. The department shall establish and define mandated provider reporting requirements for each family-centered supportive service component and include these requirements in the department's request for proposals and contracts developed as a result of the procurement process.

**441—172.34(234) Billing and payment.** The units of service for family-centered supportive service components shall be as follows:

**172.34(1)** Drug testing. The unit of service for drug testing shall be completion of one drug testing procedure, as defined in the department's request for proposals.

**172.34(2)** Family team meeting facilitation.

a. Family team meeting facilitation shall be purchased based on either:

(1) A payment rate for each facilitated family team meeting; or

(2) A monthly payment to a provider for the expenses of staff contracted to deliver facilitation services.

b. Regardless of the purchasing method, facilitation services shall include: completion of necessary premeeting planning activities, facilitation of the meeting, and completion of a written report of meeting results.

**172.34(3)** Legal services for permanency. The unit of service for legal services shall be a variable amount per client, based on the actual costs of legal services and related court costs necessary to achieve the desired legal result.

**172.34(4)** Service-area-specific programs. The unit of services and unit cost for service-area-specific programs shall be defined in the request for proposals and provider contracts resulting from the procurement process.

These rules are intended to implement Iowa Code section 234.6.

ITEM 2. Rescind and reserve **441—Chapter 181.**

ITEM 3. Rescind and reserve **441—Chapter 182.**

## ARC 5672B

### HUMAN SERVICES DEPARTMENT[441]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 234.6, the Department of Human Services proposes to amend Chapter 182, "Family-Centered Services," Iowa Administrative Code.

The proposed amendment lowers the provider staff qualifications for family-centered parental counseling and education services from the level required for rehabilitative therapy and counseling to the level required for rehabilitative skill development services. This change is being proposed in re-

sponse to recent changes in the rehabilitative treatment and supportive services program resulting from the Medicaid remedial services initiative. Since most behavioral health interventions are now being provided under the remedial services program, basic parenting instruction and skill development to improve parental functioning and stability comprise the core of what Department staff are currently requesting from providers of parental counseling services.

The amendment will allow provider staff who do not have a four-year human services college degree, but who possess the required combination of education and work experience, to meet certification qualifications to provide skill development services. The amendment requires any service intervention for which professional licensure is needed to be delivered by provider staff with the necessary licensure. This change will allow for a greater number of qualified provider staff who are able to deliver parental counseling services. The amended standard will be appropriate to the level of qualifications necessary to deliver the type of parental counseling services most often requested by Department staff.

This amendment does not provide for waivers in specified situations because it lowers the previous standard. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before February 20, 2007. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment is intended to implement Iowa Code section 234.6.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **182.5(4)**, paragraphs "b" and "c," as follows:

b. Persons delivering nonrehabilitative therapy and counseling ~~or parental counseling and education~~ shall meet the minimum education and experience requirements for therapy and counseling services as specified in rule 441—185.10(234).

c. Persons delivering nonrehabilitative treatment skill development services ~~or parental counseling and education services~~ shall meet the minimum education and experience requirements specified in rule 441—185.10(234) for skill development services. *If the service provider delivers a service intervention that requires professional licensure, the service provider shall possess the required licensure.*

**ARC 5698B****INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 505.8, the Insurance Division hereby gives Notice of Intended Action to amend the following chapters of the Iowa Administrative Code: Chapter 5, "Regulation of Insurers—General Provisions," Chapter 20, "Property and Casualty Insurance Rate and Form Filing Procedures," Chapter 30, "Life Insurance Policies," Chapter 31, "Life Insurance Companies—Variable Annuities Contracts," Chapter 34, "Nonprofit Health Service Corporations," Chapter 35, "Accident and Health Insurance," Chapter 36, "Individual Accident and Health—Minimum Standards," Chapter 37, "Medicare Supplement Insurance Minimum Standards," and Chapter 39, "Long-Term Care Insurance."

The rules to be amended in these chapters describe the procedures for filing insurance policy rates and forms for approval by the Insurance Division. The proposed amendments set forth changes to the procedures intended to require the filing of all rates and forms through electronic means in order to make the filing and approval process more efficient. The Division intends that the rules will become effective May 16, 2007, and that Iowa insurance companies and producers will comply with these rules beginning July 1, 2007.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 20, 2007. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on February 20, 2007, at 10 a.m. in the office of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend a public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

These amendments are intended to implement Iowa Code section 505.8.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 191—5.9(505) and adopt **new** rule 191—5.9(505) as follows:

**191—5.9(505) Rate and form filings.** Insurers doing business in Iowa shall file rates and forms in accordance with ap-

plicable law and with 191—Chapters 20, 30, 31, 34, 35, 36, 37, and 39, as applicable.

ITEM 2. Rescind rule 191—20.1(515,515A,515C,518,518A,520) and adopt **new** rule 191—20.1(505,509,514A,515,515A,515F) as follows:

**191—20.1(505,509,514A,515,515A,515F) General filing requirements.**

**20.1(1)** Insurance companies required to file rates or forms with the division shall submit required rate and form filings electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Insurance companies must comply with the division's requirements, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set out on the SERFF Web site at [www.serff.org](http://www.serff.org).

**20.1(2)** No rate filing shall include any adjustment designed to recover underwriting or operating losses incurred out of state. Upon request by the commissioner, insurers doing business in Iowa shall segregate in their rate filings data from any state identified by the commissioner, and the filings shall include a certification that no portion of any rate increase is designed to recover underwriting or operating losses incurred in another state.

ITEM 3. Rescind rule 191—20.2(515,515A,515C,518,518A,520) and adopt **new** rule 191—20.2(505) as follows:

**191—20.2(505) Objection to filing.**

**20.2(1)** Any insured or established organization with one or more insureds among its members that has an objection to a form or rate filing may submit to the insurance commissioner a written request for a hearing on the filing. A request for a hearing must be filed within 20 days after the filing has been received by the commissioner.

**20.2(2)** Within 20 days after receipt of the request for a hearing, the commissioner will hold a hearing to consider the objection to the filing. The commissioner will provide not less than 10 days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner may suspend or postpone the effective date of the filing pending the hearing. Upon consideration of the information received at the hearing, the commissioner may determine whether or not to approve the filing.

ITEM 4. Amend rule 191—20.4(515,515C,518,518A,520) as follows:

**191—20.4(515,515C,518,518A,520) 191—20.4(505,509,514A,515,515A,515F) Policy form filing.**

**20.4(1)** Filing of forms must be made in final printed form. The division will return to the sender any forms which are illegible because of size of print, clarity of copy, or format of form.

**20.4(2)** Each policy form, endorsement, application and agreement modifying the provisions of policies must bear an identification form number. This form number must be in the lower left-hand corner unless uniform or authentic forms are used.

**20.4(3)** All endorsements, riders and agreements restricting coverage provisions of the policy form previously issued must provide a signature line for acceptance by the named insured.

## INSURANCE DIVISION[191](cont'd)

~~20.4(4) Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within 20 days of receipt of the form filing by the commissioner.~~

~~20.4(5) The commissioner of insurance will hold the hearing within 20 days after receipt of the written demand for a hearing and will give not less than 10 days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting a notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending the hearing.~~

~~20.4(6.3) A form filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from its receipt.~~

ITEM 5. Amend rule 191—20.5(515A) as follows:

**191—20.5(515A) Rate or manual rule filing.**

**20.5(1)** No change.

a. No change.

b. An insurer may satisfy its obligation to make rate filings by becoming a participating insurer of a licensed advisory organization that makes reference filings of advisory prospective loss costs and by authorizing the commissioner to accept such filings on its behalf by completing and filing a (1) Reference Filing Adoption Form, (2) a Summary of Supporting Information Form and, if applicable, (3) an Expense Constant Supplement to be provided by the commissioner. The insurer's rates shall be the prospective loss costs filed by the advisory organization which have been put into effect in accordance with 20.5(1)"a," combined with the loss cost adjustments which are filed in accordance with this paragraph.

c. An insurer may satisfy its obligation to make filings of supplementary rating information by becoming a participating insurer of a licensed advisory organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf. ~~The insurer's supplementary rating information shall be that filed by the advisory organization, subject to any modifications filed by the insurer.~~

d. No change.

**20.5(2)** No change.

~~20.5(3) Filings of rules or rates may be made in a form other than manual size pages provided that if made effective they are replaced within a reasonable period of time by manual size pages, showing the page number and rule number, with a reference to the pertinent filing. The filing of special rules or rating plans may be made on other than manual size pages, and need not be so replaced provided that a manual size reference page is furnished for the filing.~~

**20.5(4.3)** Insurers making filings in their own behalf and advisory organizations shall identify each page filed by printing, typing or stamping their own name thereon.

**20.5(5.4)** If a company filing rates used the manuals of an advisory organization in its filings, any portion of the manuals of the organization which will not be followed by the filing must be clearly shown as deleted or amended by use of an appropriately numbered exception page. ~~Exception pages shall be on a different colored paper so as to be easily identified, and should be of the same size as the basic manual.~~

**20.5(6.5)** For residual market mechanisms, insurers making filings in their own behalf shall identify the submission as an independent filing or a deviation from the bureau filing. A deviation filing is a submission which represents modification of a form or rate or rule previously filed by an authorized rating organization or advisory organization on behalf of its member and subscriber companies. If an insurer has pre-

viously filed forms modifying coverage provided by the applicable standard or bureau forms, such fact should be noted in the rate filing.

ITEM 6. Rescind and reserve rules **191—20.9(515F)** and **191—20.10(515F)**.

ITEM 7. Amend rule 191—30.5(508) as follows:

**191—30.5(508) General filing requirements.**

**30.5(1)** All filings submitted to the Iowa division of insurance must be accompanied by a prepaid self-addressed envelope large enough to contain the complete submission. *Insurance companies required to file rates or forms with the division shall submit required rate and form filings pursuant to rule 191—20.1(505,509,514A,515,515A,515F).*

**30.5(2)** All filings must be accompanied by the most recent edition of the applicable National Association of Insurance Commissioners (NAIC) Transmittal Document (form "LH D-1") and Filing Attachment(s) (form "LH FFA-1, Rates" or form "LH RFA-A" or both) in duplicate, and a brief description of the purpose for the filing must be provided on the transmittal document. If the filing amends or changes a prior filing, the previous provisions and new provisions should be described in the applicable space on the forms with an explanation for the changes. Detailed instructions are posted on the division's Web site: [www.iid.state.ia.us](http://www.iid.state.ia.us).

**30.5(3)** A copy of each form for which approval is requested shall be transmitted with the filing. If the forms submitted refer to both life and accident and health coverages, the Transmittal Document and Filing Attachment(s) must be submitted in triplicate with two copies of each form for which approval is requested. Detailed instructions are posted on the division's Web site: [www.iid.state.ia.us](http://www.iid.state.ia.us).

**30.5(4.2)** Each filing must be submitted to the division of insurance not less than 60 days prior to the effective date of the filing, unless the 60-day period is waived by the division for good cause. Any deficiencies or discrepancies in the filing will delay final approval. In case of disapproval, the company will be notified by the division.

**30.5(5.3)** A filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from its receipt by the division.

**30.5(4)** *Any insured or established organization with one or more insureds among its members may object to a form or rate filing pursuant to rule 191—20.2(505).*

~~30.5(6) Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within 20 days of receipt of the form filing by the commissioner.~~

~~30.5(7) The commissioner of insurance will hold the hearing within 20 days after receipt of the written demand for a hearing and will give not less than 10 days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending the hearing.~~

ITEM 8. Amend subrules 31.3(1) and 31.3(2) as follows:

**31.3(1)** No contract on a variable basis or certificates *certificates* evidencing variable benefits issued pursuant to any such contract shall be issued or delivered to any person in this state until a copy of the form of the same has been filed with *pursuant to rule 191—20.1(505,509,514A,515,515A,515F)* and approved by the commissioner.

INSURANCE DIVISION[191](cont'd)

**31.3(2)** The commissioner shall disapprove or withdraw approval of any such contract form or certificate if:

a. Such contract or certificate contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation or contrary to law, or

b. Sales of such contracts are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract.

c. The contract or certificate does not comply with the filing requirements and provisions set forth in ~~191—subrules 30.5(1) to (8) rule 191—20.1(505,509,514A,515,515A,515F)~~.

ITEM 9. Amend rule 191—34.5(514) as follows:

**191—34.5(514) Filing requirements.** All matters subject to the division's approval under Iowa Code chapter 514 shall be submitted *pursuant to rule 191—20.1(505,509,514A,515,515A,515F)* prior to the intended effective date.

ITEM 10. Amend rule 191—35.7(509) as follows:

Rescind subrules **35.7(1)** to **35.7(3)**, **35.7(5)** and **35.7(6)**.

Re-number subrule **35.7(4)** as **35.7(2)** and adopt **new** subrule 35.7(1) as follows:

**35.7(1)** *Insurance companies required to file rates or forms with the division shall submit required rate and form filings pursuant to rule 191—20.1(505,509,514A,515,515A,515F).*

**35.7(4-2)** Each filing must be submitted to the division of insurance not less than 60 days prior to the effective date of the filing. Any deficiencies or discrepancies in the filing will delay final approval. In case of disapproval, the company will be notified by the division.

ITEM 11. Amend rule 191—36.11(514D) as follows:

**191—36.11(514D) Certification.** Any policy form submitted to the insurance division for approval which is subject to Iowa Code chapter 514D shall be in conformance with the applicable requirements of Iowa Code chapter 514D and with the filing requirements set forth in ~~subrules 35.7(1) to 35.7(7) rule 191—20.1(505,509,514A,515,515A,515F)~~.

ITEM 12. Amend subrule 37.13(1) as follows:

**37.13(1)** An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed ~~with pursuant to rule 191—20.1(505,509,514A,515,515A,515F)~~ and approved by the commissioner ~~in accordance with filing requirements and procedures prescribed by the commissioner.~~

ITEM 13. Amend subrule 39.26(2), introductory paragraph, as follows:

**39.26(2)** Required filing. An insurer shall provide the information listed in this subrule to the commissioner *pursuant to rule 191—20.1(505,509,514A,515,515A,515F)* 30 days prior to making a long-term care insurance form available for sale.

**ARC 5682B**

## PUBLIC HEALTH DEPARTMENT[641]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 136C.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 38, “General Provisions for Radiation Machines and Radioactive Materials,” Chapter 39, “Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials,” Chapter 40, “Standards for Protection Against Radiation,” Chapter 41, “Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials,” Chapter 42, “Minimum Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists,” Chapter 44, “Minimum Requirements for Radon Mitigation,” and Chapter 46, “Minimum Requirements for Tanning Facilities,” Iowa Administrative Code.

The following paragraphs itemize the proposed changes:

Items 1, 5, 10, and 59 amend the rules to reflect current federal regulations.

Item 2 amends definitions to meet the Conference on Radiation Control Program Directors (CRCPD) suggested state regulations.

Item 3 increases fees to cover the cost of operating the programs. Examination fees are increased because the examination provider increased the provider's fee.

Item 4 removes language that is covered elsewhere in rules governing settlements.

Item 6 amends language to indicate an approved registry rather than individual isotopes.

Items 7, 8, and 9 add language involving nationally tracked sources. Items 7, 8, and 9 meet Nuclear Regulatory Commission (NRC) compatibility requirements.

Item 11 is amended to allow advanced registered nurse practitioners to supervise fluoroscopic procedures. Item 11 also allows radiologic assistants permitted in Chapter 42 to perform fluoroscopic procedures.

Item 12 adopts new language to add additional protection for individuals required to be in the room during certain fluoroscopic procedures.

Items 13 and 14 add language to allow use of hand-held dental X-ray systems.

Item 15 corrects language that was corrected in previous rule makings that removed the term “quality management program.”

Items 16, 17, and 18 correct references.

Items 19 to 40 amend and adopt language to update requirements for fluoroscopic systems in order to meet CRCPD suggested state regulations.

Item 41 adds language for clarification.

Item 42 clarifies the application process for operator certification.

Item 43 corrects a reference.

Item 44 adds a continuing education requirement for a new operator category.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Items 45, 46, 47, and 48 amend and adopt new requirements for operator continuing education.

Item 49 rescinds language that is incorporated in Item 42 for clarity.

Item 50 amends language to clarify who can operate CT, PET/CT, or SPECT/CT equipment.

Item 51 amends the time frame for operator certification examinations.

Item 52 adopts new requirements for CT technologists.

Items 53, 56, and 57 clarify language for operator training programs.

Item 55 rescinds language that is incorporated in Item 54 for clarity.

Item 58 corrects references to radon standards.

Items 60 and 63 allow options for verification of eyewear and cleansing of tanning units.

Item 61 removes the "30 seconds" response requirement and replaces it with "reasonable amount of time" to allow the operators of tanning facilities a greater variety of responses.

Item 62 clarifies what injuries should be reported to the Bureau.

Item 64 adopts new requirements for electronically controlled tanning facilities.

Item 65 removes unnecessary language.

These rules are subject to waiver pursuant to the Department's exemption provision contained at 641—38.3(136C). For this reason, the Department has not provided a specific provision for waiver of these particular rules.

Any interested person may make written suggestions or comments on these proposed amendments prior to the close of business on February 22, 2007. Such written materials should be directed to Chief of Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, 5th Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or E-mail [ccraig@idph.state.ia.us](mailto:ccraig@idph.state.ia.us).

A public hearing will be held on February 22, 2007, at 8 a.m. in the fourth floor Conference Room 415, Side 2, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who plans to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department to advise of specific needs.

These amendments are intended to implement Iowa Code chapters 136B, 136C, and 136D.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 38.1(2) as follows:

**38.1(2)** All references to Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~May 3, 2006~~ *April 30, 2007*.

ITEM 2. Amend rule **641—38.2(136C)**, definitions of "prescribed dose," "primary dose monitoring system," "protective barrier," "radiation detector," and "target-to-skin distance (TSD)," as follows:

"Prescribed dose" means:

1. For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

2. For teletherapy, particle accelerators and X-ray *therapy* systems, the total dose and dose per fraction as documented in the written directive;

3. For manual brachytherapy, either the total source strength and exposure time or the total doses *dose*, as documented in the written directive; or

4. For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

"Primary dose monitoring system" means a system which will monitor the useful beam during irradiation and which will terminate irradiation when a preselected number of dose monitor units have been ~~acquired~~ *delivered*.

"Protective barrier" means a barrier used to reduce radiation exposure. The types of protective barriers are as follows:

1. "Primary protective barrier" means the material, excluding filters, placed in the useful beam, ~~for protection purposes, to reduce the radiation exposure.~~

2. "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

"Radiation detector" means a device which, in the presence of radiation, *by either direct or indirect means*, provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

"Target-to-skin distance (TSD)" means the distance measured along the beam axis from the center of the front surface of the X-ray target or electron *virtual source* scattering foil to the surface of the irradiated object or patient.

ITEM 3. Amend subrule **38.8(6)** as follows:

Amend paragraph "**a**" as follows:

a. Annual fee. Each individual must submit a \$45 *60* initial fee for the first year and \$35 *50* annually. These fees are nonrefundable.

Amend paragraph "**b**" as follows:

b. Examination fee.

~~(1) Each individual making application to take an examination given by the agency as a limited or general nuclear medicine technologist, limited or general radiation therapist, or limited or general diagnostic radiographer, or general radiation therapist as defined in 641—Chapter 42, must pay a nonrefundable fee of \$80 *110* each time the individual takes the examination required by 641—Chapter 42.~~

~~(2) Each individual making application to take an examination given by the agency as a limited diagnostic radiographer, limited nuclear medicine technologist, or limited radiation therapist as defined in 641—Chapter 42 must pay a nonrefundable fee of \$85 each time the individual takes the examination required by 641—Chapter 42.~~

~~(3) Each individual making application to take an examination given by the agency as a general nuclear medicine technologist as defined in 641—Chapter 42 must pay a nonrefundable fee of either \$80 or \$160, depending upon the testing organization chosen.~~

ITEM 4. Amend subrule 38.9(4) as follows:

**38.9(4)** Settlement and compromise. At any time after the issuance of an order designating the time and place of hearing in a proceeding to modify, suspend, or revoke an authorization, the staff and a regulated entity may enter into a stipulation for the settlement of the proceeding or the compromise of a civil penalty. ~~The stipulation or compromise shall be subject to approval by the designated presiding officer or, if none has been designated, by the chief administrative law judge, according due weight to the position of the staff. The presiding officer, or if none has been designated, the chief administrative law judge, may order such adjudication of the issues as deemed to be required in the public interest to dispose~~

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of the proceeding. If approved, the terms of the settlement or compromise shall be embodied in a decision or order settling and discontinuing the proceeding.

ITEM 5. Amend subrule 39.1(3) as follows:

**39.1(3)** All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~May 3, 2006~~ *April 30, 2007*.

ITEM 6. Amend subrule **39.4(22)**, paragraph “**d**,” subparagraph **(3)**, numbered paragraph “**13**,” first bulleted paragraph, as follows:

- Shall register devices containing at least 10 mCi (370 MBq) of cesium-137, 0.1 mCi (3.7 MBq) of strontium-90, 1 mCi (37 MBq) of cobalt-60, 1 mCi (37 MBq) of americium-241, .01 mCi (.37 MBq) of radium-226, or 1 mCi (37 MBq) of any other transuranic (i.e., element with atomic number greater than uranium (92)), or 1000 times the activity indicated in Appendix B of 641—Chapter 39 (excluding hydrogen-3), based on the activity indicated on the label *as approved in the Sealed Source Device Registry*. Each address for a location of use, as described in 39.4(22)“d”(3)“13,” represents a separate general licensee and requires a separate registration and fee;

ITEM 7. Amend subrule **40.2(2)** by adopting the following **new** definition in alphabetical order:

“National tracked source” means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix H of this chapter. In this context a “sealed source” is defined as radioactive material that is sealed in a capsule or closely bonded in a solid form and that is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

ITEM 8. Adopt the following **new** rule 641—40.99(136C):

**641—40.99(136C) Reports of transactions involving nationally tracked sources.** Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report as specified in subrules 40.99(1) to 40.99(5) for each type of transaction.

**40.99(1)** Each licensee that manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a. The name, address, and license number of the reporting licensee;
- b. The name of the individual preparing the report;
- c. The manufacturer, model, and serial number of the source;
- d. The radioactive material in the source;
- e. The initial source strength in becquerels (curies) at the time of manufacture; and
- f. The manufacture date of the source.

**40.99(2)** Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a. The name, address, and license number of the reporting licensee;
- b. The name of the individual preparing the report;
- c. The name and license number of the recipient facility and the shipping address;
- d. The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- e. The radioactive material in the source;
- f. The initial or current source strength in becquerels (curies);
- g. The date for which the source strength is reported;
- h. The shipping date;
- i. The estimated arrival date; and
- j. For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

**40.99(3)** Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a. The name, address, and license number of the reporting licensee;
- b. The name of the individual preparing the report;
- c. The name, address, and license number of the person that provided the source;
- d. The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- e. The radioactive material in the source;
- f. The initial or current source strength in becquerels (curies);
- g. The date for which the source strength is reported;
- h. The date of receipt; and
- i. For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

**40.99(4)** Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a. The name, address, and license number of the reporting licensee;
- b. The name of the individual preparing the report;
- c. The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- d. The radioactive material in the source;
- e. The initial or current source strength in becquerels (curies);
- f. The date for which the source strength is reported; and
- g. The disassemble date of the source.

**40.99(5)** Each licensee that disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a. The name, address, and license number of the reporting licensee;
- b. The name of the individual preparing the report;
- c. The waste manifest number;
- d. The container identification with the nationally tracked source;
- e. The date of disposal; and
- f. The method of disposal.

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**40.99(6)** Reports discussed in subrules 40.99(1) to 40.99(5) must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

- The on-line National Source Tracking System;
- Electronically using a computer-readable format;
- By facsimile;
- By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or
- By telephone with follow-up by facsimile or mail.

**40.99(7)** Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by subrules 40.99(1) to 40.99(5). By January 31 of each year, each licensee must submit to the National Source Tracking System

confirmation that the data in the National Source Tracking System is correct.

**40.99(8)** Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by November 15, 2007. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by November 30, 2007. The information may be submitted by using any of the methods identified in subrule 40.99(6). The initial inventory report must include the following information:

- The name, address, and license number of the reporting licensee;
- The name of the individual preparing the report;
- The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;
- The radioactive material in the sealed source;
- The initial or current source strength in becquerels (curies); and
- The date for which the source strength is reported.

ITEM 9. Amend **641—Chapter 40** by adopting **new** Appendix H as follows:

## APPENDIX H

## NATIONALLY TRACKED SOURCE THRESHOLDS

The Terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16.0
Americium-24/Be	60	1,600	0.6	16.0
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	15.0
Cesium-137	100	2,700	1.0	27.0
Gadolinium-153	1,000	27,000	10.0	270.0
Iridium-192	80	2,200	0.8	22.0
Plutonium-238	60	1,600	0.6	16.0
Plutonium-239/Be	60	1,600	0.6	16.0
Polonium-210	60	1,600	0.6	16.0
Promethium-147	40,000	1,100,000	400.0	11,000.0
Radium-226	40	1,100	0.4	11.0
Selenium-75	200	5,400	2.0	54.0
Strontium-90	1,000	27,000	10.0	270.0
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200.0	5,400.0
Ytterbium-169	300	8,100	3.0	81.0

ITEM 10. Amend subrule **41.1(1)**, paragraph "**b**," as follows:

- All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of **May 3, 2006 April 30, 2007**.

ITEM 11. Amend subrule **41.1(5)**, paragraph "**1**," subparagraph (2), as follows:

- The use of fluoroscopic X-ray systems by radiologic technologists and students shall be performed under the direct supervision of a licensed practitioner of the healing arts

*or a licensed registered nurse who is registered as an advanced registered nurse practitioner pursuant to Iowa Code chapter 152 for the purpose of localization to obtain images for diagnostic purposes. The use of fluoroscopic X-ray systems by radiologic assistants shall be as defined in 641—42.6(136C).*

ITEM 12. Amend subrule **41.1(5)** by adopting **new** paragraph "**m**" as follows:

- Additional requirements for stationary fluoroscopic systems used for cardiac catheterization procedures.

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(1) Protective barriers shall be available for use by individuals whose presence is required in the room during activation of the X-ray tube(s). If a protective barrier includes or consists of a transparent viewing panel, the viewing panel shall afford protection of not less than 0.5 millimeter of lead equivalent.

(2) Protective aprons of not less than 0.25 millimeter of lead equivalent shall be worn in the fluoroscopy room by all individuals (except the patient).

ITEM 13. Amend subrule **41.1(7)**, paragraph “c,” subparagraph (5), by adopting **new** numbered paragraph “3” as follows:

3. Portable or hand-held dental X-ray systems designed with a backscatter shield may be used without the additional protective barrier, but the operator must wear a protective apron. The operator must stand directly behind the unit to allow the shield to function as designed.

ITEM 14. Amend subrule **41.1(7)** by adopting **new** paragraph “i” as follows:

i. Portable or hand-held dental X-ray systems designed with a backscatter shield shall:

- (1) Be used only where it is impractical to use a portable dental system;
- (2) Be used as the manufacturer indicates;
- (3) Not be used with the backscatter shield removed, if applicable; and
- (4) Be exempted from 41.1(4)“g.”

ITEM 15. Amend subrule **41.2(11)**, paragraph “c,” subparagraph (1), as follows:

(1) Instruct the supervised individual in the preparation of radioactive material for medical use and the principles of and procedures for radiation safety and in the licensee’s written ~~quality management program~~ *procedures for maintaining written directives*, as appropriate to that individual’s use of radioactive material;

ITEM 16. Amend subrule 41.2(65), introductory paragraph, as follows:

**41.2(65)** Training for radiation safety officer. Except as provided in ~~41.2(66)~~ 41.2(75), the licensee shall require an individual fulfilling the responsibilities of the radiation safety officer as provided in 41.2(8) to be an individual who:

ITEM 17. Amend subrule 41.2(67), introductory paragraph, as follows:

**41.2(67)** Training for uptake, dilution, and excretion studies. Except as provided in 41.2(75) and 41.2(76), the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under 41.2(31) to be a physician who:

ITEM 18. Amend subrule 41.2(68), introductory paragraph, as follows:

**41.2(68)** Training for imaging and localization studies. Except as provided in 41.2(75) and 41.2(76), the licensee shall require the authorized user of unsealed radioactive material specified in 41.2(33) to be a physician who:

ITEM 19. Amend subrule **41.3(2)**, definitions of “moving beam radiation therapy” and “nominal treatment distance,” as follows:

“Moving beam radiation therapy” means radiation therapy with continuous displacement of one or more mechanical axes relative to the patient during irradiation. It includes arc therapy, skip therapy, conformal therapy, *intensity modulation*, and rotational therapy.

“Nominal treatment distance” means:

1. For electron irradiation, the distance from the scattering foil, *virtual source*, or exit window, of the electron beam to the entrance surface of the irradiated object along the central axis of the useful beam.

2. For X-ray irradiation, *the virtual source or target to isocenter distance* along the central axis of the useful beam. For nonisocentric equipment, this distance shall be that specified by the manufacturer.

ITEM 20. Amend subrule **41.3(5)** by adopting **new** paragraph “g” as follows:

g. A physician shall not act as an authorized user for any therapeutic radiation machine until such time as said physician’s training has been reviewed and approved by the registrant.

ITEM 21. Amend subrule 41.3(8) as follows:

**41.3(8)** Written safety procedures and rules shall be developed by a radiation therapy physicist and shall be available in the control area of a therapeutic radiation machine, including any restrictions required for the safe operation of the particular therapeutic radiation machine. *The operator shall be able to demonstrate familiarity with these rules. All individuals associated with the operation of a therapeutic radiation machine shall be instructed in and shall comply with procedures for maintaining written directives.*

ITEM 22. Amend subrule 41.3(10) as follows:

**41.3(10)** Records of visiting authorized users. Notwithstanding the provisions of 41.3(5), a registrant may permit any physician to act as a visiting authorized user *for up to 60 days per calendar year* under the following conditions:

a. The *visiting* authorized user has the prior written permission of the registrant’s management *and*, if the use occurs on behalf of an institution, *the institution’s radiation safety committee*; ~~and~~

b. *The visiting authorized user meets the requirements of 41.3(5); and*

b c. The registrant maintains copies of all records specified in 41.3(5) for five years from the date of the last visit.

ITEM 23. Amend subrule 41.3(11), introductory paragraph, as follows:

**41.3(11)** Information and maintenance record and associated information. The registrant shall maintain the following information *in a separate file or package* for each therapeutic radiation machine for inspection by the agency:

ITEM 24. Amend subrule **41.3(16)**, paragraph “a,” subparagraph (2), as follows:

(2) In addition to the requirements of 41.3(16)“a”(1), a radiation protection survey shall also be performed prior to *any subsequent* medical use and:

1. After making any change in the treatment room shielding;

2. After ~~installing or relocating~~ *making any change in the location of the therapeutic radiation machine within the treatment room*;

3. *After relocating the therapeutic radiation machine; or*

3 4. Before using the therapeutic radiation machine in a manner that could result in increased radiation levels in areas outside the external beam radiation therapy treatment room.

ITEM 25. Amend subrule **41.3(17)**, paragraph “d,” subparagraph (9), numbered paragraph “2,” as follows:

2. ~~Proper operation of the~~ *The* “BEAM-ON” and termination switches;



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ITEM 26. Amend subrule **41.3(17)**, paragraph “e,” by adopting **new** subparagraph (6) as follows:

(6) The therapeutic radiation machine shall not be used for irradiation of patients unless the requirements of 41.3(17)“c” and “d” have been met.

ITEM 27. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (2), numbered paragraph “2,” first bulleted paragraph, as follows:

- A maximum of 2 percent *and average of 0.5 percent* of the absorbed dose on the central axis of the useful beam at the nominal treatment distance. This limit shall apply beyond a line seven centimeters outside the periphery of the useful beam; and

ITEM 28. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (4), numbered paragraph “2,” as follows:

2. If the absorbed dose rate information required by 41.3(18)“a”(9) relates exclusively to operation with a field-flattening filter or beam-scattering *foil* in place, such filter *or foil* shall be removable only by the use of tools;

ITEM 29. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (4), numbered paragraph “3,” third bulleted paragraph, as follows:

- A display shall be provided at the treatment control panel showing the wedge filter(s), *interchangeable field-flattening filter(s)*, and *interchangeable beam-scattering foil(s)* in use; and

ITEM 30. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (7), numbered paragraph “1,” as follows:

1. Bent-beam linear accelerators *with beam-flattening filter(s)* subject to 41.3(18) shall be provided with auxiliary device(s) to monitor beam symmetry;

ITEM 31. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (8), by adopting **new** numbered paragraph “4” as follows:

4. Irradiation shall not be possible until a new selection of a number of dose monitor units has been made at the treatment control panel.

ITEM 32. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (15), by adopting **new** numbered paragraph “4” as follows:

4. For equipment manufactured after July 9, 1997, the selection of energy shall be in compliance with International Electrotechnical Commission (IEC) Document 60601-2-1.

ITEM 33. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (16), numbered paragraph “1,” as follows:

1. Irradiation shall not be possible until a selection of stationary beam radiation therapy or ~~rotational~~ *are moving beam* radiation therapy has been made at the treatment control panel;

ITEM 34. Amend subrule **41.3(18)**, paragraph “a,” subparagraph (16), numbered paragraph “5,” first and third bulleted paragraphs, as follows:

- An interlock system shall be provided to terminate irradiation if the number of dose monitor units delivered in any ten degrees of rotation *or one centimeter of linear motion* differs by more than 20 percent from the selected value;
- An interlock shall be provided to prevent motion of more than five degrees *or one centimeter* beyond the selected limits during moving beam radiation therapy;

ITEM 35. Amend subrule **41.3(18)**, paragraph “e,” as follows:

e. ~~Full~~ *Acceptance testing, commissioning, and full calibration* measurements.

(1) ~~Full~~ *Acceptance testing, commissioning, and full calibration* of a therapeutic radiation machine subject to 41.3(18) shall be performed by, or under the direct supervision of, a radiation therapy physicist:

1. ~~Before~~ *Acceptance testing and commissioning shall be performed in accordance with “AAPM Code of Practice for Radiotherapy Accelerators: AAPM Report No. 47,” prepared by Radiation Therapy Task Group 45 and the manufacturer’s contractual specifications and conducted before* the first medical use following installation or reinstallation of the therapeutic radiation machine;

2. Full calibration shall include measurement of all parameters listed in Appendix D of 641—Chapter 41 *and be performed in accordance with “AAPM Code of Practice for Radiotherapy Accelerators: AAPM Report No. 47,” prepared by Radiation Therapy Task Group 45.* Although it shall not be necessary to complete all elements of a full calibration at the same time, all parameters (for all energies) shall be completed at intervals not to exceed 12 calendar months, unless a more frequent interval is required by this agency.

3. ~~Before medical use under the following conditions~~ *The radiation therapy physicist shall perform all elements of a full calibration necessary to determine that all parameters are within acceptable limits:*

- Whenever quality assurance check measurements indicate that the radiation output differs by more than 5 percent from the value obtained at the last full calibration and the difference cannot be reconciled. Therapeutic radiation machines with multienergy or multimode capabilities or both shall only require measurements for those modes or energies that are not within their acceptable range; and

- Following any component replacement, major repair, or modification of components that could significantly affect the characteristics of the radiation beam. If the repair, replacement or modification does not affect all modes or energies, ~~full calibration measurements~~ *shall be performed on the effected affected mode/energy that is in most frequent clinical use at the facility.* The remaining energy/modes may be validated with quality assurance check procedures against the criteria in 41.3(18)“e”(1)“3.”

(2) The registrant shall use the dosimetry system described in 41.3(16)“c” to measure the radiation output for one set of exposure conditions.

(3) The registrant shall maintain a record of each calibration *in an auditable form* for the duration of the registration. The record shall include the date of the calibration, the manufacturer’s name, model number, and serial number for the therapeutic radiation machine, the model numbers and serial numbers of the instruments used to calibrate the therapeutic radiation machine, and the signature of the radiation therapy physicist responsible for performing the calibration.

ITEM 36. Amend subrule **41.3(18)**, paragraph “f,” subparagraph (5), numbered paragraphs “2” and “3,” as follows:

2. If all quality assurance check parameters appear to be within their acceptable range, the quality assurance check shall be reviewed and signed by either the authorized user or radiation therapy physicist ~~within seven working~~ *three treatment* days; and

3. The radiation therapy physicist shall review and sign the results of each radiation output quality assurance check ~~within 20 working days of completion~~ *at intervals not to exceed one month.*

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ITEM 37. Amend subrule **41.3(18)**, paragraph “**f**,” subparagraph (7), by adopting **new** numbered paragraph “**7**” as follows:

7. At least one emergency power cutoff switch. If more than one emergency power cutoff switch is installed and not all switches are tested at once, each switch shall be tested on a rotating basis. Safety quality assurance checks of the emergency power cutoff switches may be conducted at the end of the treatment day in order to minimize possible stability problems with the therapeutic radiation machine;

ITEM 38. Rescind and reserve subrule **41.3(18)**, paragraph “**f**,” subparagraph (8).

ITEM 39. Amend rule 641—41.3(136C) by adopting **new** subrule 41.3(20) as follows:

**41.3(20)** Calibration of survey instruments.

a. The registrant shall ensure that the survey instruments used to show compliance with 645—41.3(136C) have been calibrated before first use, at intervals not to exceed 12 months, and following repair.

b. To satisfy the requirements of 41.3(20), the registrant shall:

(1) Calibrate all required scale readings up to 1000 mrem (10 mSv) per hour with an appropriate radiation source that is traceable to the National Institute of Standards and Technology (NIST);

(2) Calibrate at least two points on each scale to be calibrated. These points should be at approximately 1/3 and 2/3 of full-scale;

(3) Consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 10 percent; and

(4) Consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 20 percent if a correction factor or graph is conspicuously attached to the instrument.

c. The registrant shall retain a record of each calibration required in 41.3(20) for three years. The record shall include:

(1) A description of the calibration procedure; and

(2) A description of the source used and the certified dose rates from the source, and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.

d. The registrant may obtain the services of individuals licensed by this agency, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state to perform calibrations of survey instruments. Records of calibrations that contain information required in 41.3(20) shall be maintained by the registrant.

ITEM 40. Amend **641—Chapter 41, Appendix E, Part V**, by adopting **new** paragraph “**D**” as follows:

D. NCRP Report 144, “Radiation Protection for Particle Accelerator Facilities” (2003).

ITEM 41. Amend subrule **42.1(2)**, definition of “continuing education course,” as follows:

“Continuing education course” means a planned program of continuing education having sufficient scope and depth of a given subject area directly related to the field of *diagnostic radiography, nuclear medicine, or radiation therapy* to form an educational unit that is planned, coordinated, administered, and evaluated in terms of educational ~~objects~~ *objectives* and provides a defined level of knowledge or specific performance skill. This concept involves the organized pre-

sentation of a body of knowledge so that the subject matter is comprehensively covered in sufficient detail to meet the educational objectives of the course.

ITEM 42. Amend subrule 42.2(1) as follows:

**42.2(1)** ~~Minimum eligibility requirements.~~ *Application process. Any individual seeking certification under 641—Chapter 42 shall:*

a. *Meet minimum eligibility requirements:*

a. (1) Graduation from high school or its equivalent.

b. (2) Attainment of 18 years of age.

e. (3) Ability to adequately perform necessary duties without constituting a hazard to the health or safety of patients or operators.

b. *Satisfactorily complete an agency-approved training program.*

c. *Satisfactorily complete an agency-approved examination.*

d. *Upon completion of “b” and “c,” apply to the agency for a permit to practice and pay the fees as specified in 641—subrule 38.8(6).*

e. *Submit an annual renewal application which includes the fees specified in 641—subrule 38.8(6).*

f. *Report continuing education as required in 42.2(3).*

g. *Post the permit at the individual’s place of employment.*

h. *Work only under the supervision of a licensed practitioner as defined in 641—38.2(136C).*

i. *Submit a written report of any misdemeanor or felony, any disciplinary action brought against the individual in connection with a certificate or license issued from a certifying or licensing entity, or any disciplinary action brought against the individual by an employer or patient.*

ITEM 43. Amend subrule **42.2(2)**, paragraph “**j**,” as follows:

j. Violating any of the rules of 641—Chapters 38 to 44-42.

ITEM 44. Amend subrule **42.2(3)**, paragraph “**a**,” by adopting **new** subparagraph (9) as follows:

(9) CT category: 6.0 hours specific to CT in addition to the requirements above.

ITEM 45. Amend subrule **42.2(3)**, paragraph “**b**,” as follows:

Amend subparagraphs (2), (3), and (5) as follows:

(2) Following its review, the agency ~~may will~~, in consultation with or under predetermined guidance of the technical advisory committee, approve, disapprove, or request additional information on the proposed course.

(3) The agency may, ~~from time to time~~, audit the ~~any~~ continuing education course to verify the adequacy of program content and delivery.

(5) No continuing education credit is approved for passing a *an initial* certification examination, *basic CPR*, hands-on practice, ~~or~~ mandatory abuse reporting, ultrasound or MRI courses that are less than 50 percent directly related to radiography, nuclear medicine, or radiation therapy.

Adopt **new** subparagraphs (6) and (7) as follows:

(6) One-half hour of credit will be granted for each hour of formal hands-on demonstration by the application specialist. Content must be company-specific but not site-specific. Credit is limited to 50 percent of the total hours required.

(7) Courses will be approved for a three-year period and may be given anytime within the three-year period.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 46. Amend subrule **42.2(3)**, paragraph “**c**,” by adopting **new** subparagraphs (4), (5), and (6):

(4) Who complete 12.0 hours of tumor boards each two-year reporting period. Tumor board credit is limited to general radiographers, nuclear medicine technologists, and radiation therapists.

(5) Who complete all credit hours in self-studies. A self-study may not be repeated in subsequent reporting periods.

(6) Who pass an advanced ARRT certification examination in a permit-related area. Twenty-four hours will be granted.

ITEM 47. Amend subrule **42.2(3)**, paragraph “**g**,” subparagraphs (2) and (3), as follows:

(2) Any individual who fails to complete the required continuing education before the continuing education due date but submits a written plan of correction to obtain the required hours *plus 3.0 additional penalty hours for limited technologists and 6.0 additional hours for general technologists* and the fee required in 641—paragraph 38.8(6)“c” shall be allowed no more than 60 days after the original continuing education due date to complete the plan of correction *and additional penalty hours* and submit the documentation of completion of continuing education requirements. After 60 days, the certification shall be terminated and the individual shall not function as a diagnostic radiographer, radiation therapist, or nuclear medicine technologist in Iowa.

(3) Once certification has been terminated, any individual who requests permission to reestablish certification within six months of the initial continuing education due date must submit proof of continuing education hours *plus penalty hours* and shall submit a late fee as set forth in 641—paragraph 38.8(6)“c” in addition to the annual fee set forth in 641—paragraph 38.8(6)“a” in order to obtain reinstatement of certification.

ITEM 48. Amend subrule **42.2(4)**, paragraph “**a**,” subparagraphs (1) and (3), as follows:

(1) Any individual who wishes to regain certification and makes application within six months of the termination date will be allowed to do so with no additional training or testing required *but must complete any delinquent continuing education*.

(3) Any individual who has not renewed certification for at least five *two* years and wants to regain certification, or who has not applied for certification within five *two* years of the completion date of the original training course, will need to complete a recertification program approved by the department of not less than 24 contact hours for general certifications and 12 contact hours for limited certifications which specifically applies to the area of certification.

ITEM 49. Rescind and reserve subrule **42.2(5)**.

ITEM 50. Amend subrule 42.2(7) as follows:

**42.2(7)** Requirements for operators of ~~dual imaging PET/CT or SPECT/CT~~ devices.

a. When a unit is operated as a ~~stand-alone PET/CT or SPECT/CT~~ nuclear medicine imaging device, the operator must have a permit to practice as a nuclear medicine technologist and meet the requirements of 641—42.4(136C). When the unit is operated as a stand-alone CT imaging device, the operator must have a permit to practice as a ~~general diagnostic radiographer and meet the requirements of 641—42.3(136C) with CT certification added~~. ~~When a unit is operated in dual mode as a SPECT/CT or PET/CT device, the operator must have a permit to practice as a nuclear medicine technologist.~~

b. In order to operate a ~~SPECT/CT or PET/CT~~ unit as a stand-alone CT unit, the individual must:

- (1) Be certified as a nuclear medicine technologist;
- (2) Complete a training program approved by the agency; and
- (3) ~~Successfully complete the ARRT specialty examination for CT.~~

ITEM 51. Amend subrule 42.2(8) as follows:

**42.2(8)** Examinations. All individuals seeking certification under 641—Chapter 42 must pass a written examination within six months of the date of the initial certification. ~~The temporary six-month permit will be issued to allow the before the permit can be issued. The individual is allowed to practice under the direct supervision of a licensed practitioner, an authorized user listed on a radioactive materials license, or a permitted individual with the permit in the same or higher category until the permit is issued provided the test is pending. The individual will be issued an annual permit upon passing the examination. Individuals who fail the examination three times will be required to satisfactorily complete the training course again.~~

ITEM 52. Adopt **new** subrule 42.2(9) as follows:

**42.2(9)** Specific requirements for CT certification.

a. Operators of CT units used for diagnostic scans must meet the following requirements:

(1) Hold certification as a general diagnostic radiographer, radiation therapist, or nuclear medicine technologist.

(2) Complete the manufacturer’s training or an agency-approved equivalent training course. Training must include contrast media, sectional anatomy, and CT radiation protection and be at least 15.0 hours. Initial training may be used as continuing education if approved by the agency. Passing the ARRT certification examination in CT will meet the training requirement.

(3) Complete 6.0 hours of continuing education in CT subjects in each two-year reporting period. These hours are in addition to the 24.0 hours of continuing education required in 42.2(3)“a”(1), (4), (5), and (6).

b. Proof of initial training will be forwarded to the agency.

c. “CT” must be on the individual’s permit in order for the individual to perform CT scans.

ITEM 53. Amend subrule **42.3(1)**, paragraph “**a**,” introductory paragraph, as follows:

a. General diagnostic radiographer. Successful completion of a Joint Review Committee on Education in Radiologic Technology approved course of study, *certification by the American Registry of Radiologic Technologists or the American Registry of Clinical Radiography Technologists*, or equivalent *agency-approved training courses* to prepare the student to demonstrate competency in the following areas:

ITEM 54. Rescind subrule **42.3(1)**, paragraph “**d**,” and adopt the following **new** paragraph “**d**” in lieu thereof:

d. Graduates of programs recognized by the Iowa department of public health in consultation with the professional societies and boards of examiners for appropriate courses of study in diagnostic radiography will be considered to meet the requirements of this rule.

ITEM 55. Rescind and reserve subrule **42.3(2)**.

ITEM 56. Amend subrule **42.4(2)**, paragraph “**a**,” introductory paragraph, as follows:

a. General nuclear medicine technologist. Successful completion of a Joint Review Committee on Educational

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Programs in Nuclear Medicine approved course of study or equivalent *agency-approved training courses* designed to prepare the student to demonstrate competency in the following:

ITEM 57. Amend subrule **42.5(2)**, paragraph “a,” introductory paragraph, as follows:

a. General radiation therapist. Successful completion of a Joint Committee on Education in Radiologic Technology approved course of study or equivalent *agency-approved training courses* designed to prepare the student to demonstrate didactic and clinical competency in radiation therapy including, but not limited to, anatomy, physiology, radiation physics, radiation protection and exposure, quality assurance, radiation oncology treatment techniques, dosimetry, radiation oncology and pathology, radiology, oncologic patient care and management.

ITEM 58. Amend subrule **44.3(4)**, paragraph “c,” as follows:

c. The credentialed person shall comply with department standards and all the requirements as stated in EPA’s Radon Mitigation Standards (RMS) EPA 402-R-93-078, October 1993 (Revised April 1994) and ASTM E2121. ~~(NOTE: EPA has incorporated E2121 by reference and retained EPA’s Radon Mitigation Standards (RMS) in effect until at least 2007), and must comply with EPA’s Radon Mitigation Standards (RMS) EPA 402-R-93-078, October 1993 (Revised April 1994) and ASTM E2121, which states that all “shoulds” in the above document are shall be “shalls” according to department standards.~~

ITEM 59. Amend rule **641—46.1(136D)**, first unnumbered paragraph, as follows:

All references to Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~May 5, 2004~~ *April 3, 2007*.

ITEM 60. Amend subrule **46.5(8)**, paragraph “d,” as follows:

d. A tanning facility operator shall not allow a consumer to use a tanning device if that consumer does not use the protective eyewear required by this subrule. *To verify that a consumer has the proper eyewear, the operator must:*

- (1) *Ask to see the eyewear before the consumer enters the tanning room; or*
- (2) *Provide disposable eyewear in the tanning room at all times.*

ITEM 61. Amend subrule **46.5(9)**, paragraph “a,” subparagraph (2), as follows:

(2) The operator *or emergency help* can reach the consumer within ~~30 seconds~~ *a reasonable amount of time* after being summoned.

ITEM 62. Amend subrule **46.5(9)**, paragraph “d,” introductory paragraph, as follows:

d. *Any tanning injury not requiring a physician’s care and any resulting changes in tanning sessions shall be noted in the consumer’s file.* A written report of any tanning injury requiring a physician’s care shall be forwarded by the permit holder to the department within five working days of its occurrence or knowledge thereof. The report shall include:

ITEM 63. Amend subrule **46.5(9)**, paragraph “g,” as follows:

- g. Contact surfaces of tanning devices shall be:
- (1) ~~cleansed~~ *Cleansed* by the operator with a cleansing agent between each use; ~~or~~
  - (2) ~~the contact surfaces may be covered~~ *Covered* by a nonreusable protective material during each use; *or*
  - (3) *Cleansed by the consumer provided the following conditions are met:*
    1. *The operator instructs the consumer annually on how to properly cleanse the unit;*
    2. *The consumer annually signs a statement stating that the consumer agrees to cleanse the unit after each use;*
    3. *Signs are posted in each tanning room reminding the consumer to cleanse the tanning unit after each use and stating the proper way to cleanse the unit; and*
    4. *The operator cleanses the tanning unit at least once a day.*

ITEM 64. Amend rule 641—46.5(136D) by adopting **new** subrule 46.5(12) as follows:

**46.5(12)** Requirements for electronically controlled facilities. Electronically controlled facilities are those facilities that rely on electronic means to monitor consumers.

a. Entry into the facility is allowed by card only. Two individuals may not enter under the same card. The card is specifically activated for tanning use if the facility offers other activities.

b. Police and all emergency services will have access to the facility through a key box located outside the entrance of the facility.

c. The tanning unit will not activate if the card is not programmed for tanning. The card will not activate if two individuals are in the tanning room.

d. The consumer must sign a tanning agreement that states the number of minutes per session, that the consumer agrees to wear protective eyewear, that the consumer will cleanse the unit after tanning, and that the consumer is aware of the emergency access in each room.

e. The card will be programmed for the number of minutes the consumer is allowed to tan. The card may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the Tanning Agreement. After 30 consecutive days without the consumer’s accessing the tanning facility, the card will be deactivated and the consumer must reapply to access the tanning unit.

f. The operator will demonstrate to each consumer how to properly cleanse the unit after tanning, including the top, bottom, and handles. A sign will be placed in each room explaining the cleansing process. The operator will cleanse the units at least once a day when they are in use.

g. Free disposable eyewear will be placed in each room along with a sign stating that the disposable eyewear is available and that eyewear must be worn.

h. An emergency call button or device will be placed in each tanning room conveniently located within reach of the tanning bed. This device will call the operator or emergency personnel.

i. During annual inspections, the inspector may ask any consumer about any of the above processes.

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ITEM 65. Amend **641—Chapter 46, Appendix 2**, as follows:

Appendix 2  
SUN-REACTIVE SKIN TYPES USED IN CLINICAL PRACTICE

SKIN TYPE	SKIN REACTIONS TO SOLAR RADIATION <sup>(a)</sup> EXAMPLES	EXAMPLES
I	Always burns easily and severely (painful burn). Tans little or none and peels.	People most often with fair skin, blue eyes, freckles. Unexposed skin is white.
II	Usually burns easily and severely (painful burn). Tans minimally or lightly, also peels.	People most often with fair skin; red or blonde hair; blue, hazel or even brown eyes. Unexposed skin is white.
III	Burns moderately and tans about average.	Normal average Caucasoid. Unexposed skin is white.
IV	Burns minimally, tans easily, and above average with each exposure. Exhibits IPD (immediate pigment darkening) reaction.	People with white or light brown skin, dark skin, dark brown hair, dark eyes. Unexposed skin is brown.
V	Rarely burns, tans easily and substantially. Always exhibits IPD reaction.	<del>Brown-skinned person.</del> Unexposed skin is brown.
VI	Never burns and tans profusely; exhibits IPD reaction.	Unexposed skin is black.

(a) Based in the first 45-60 minutes (= 2-3 minimum erythema dose) exposure of the summer sun (early June) at sea level.  
(b) Rescinded IAB 3/29/06, effective 5/3/06.

**ARC 5683B**

**PUBLIC HEALTH  
DEPARTMENT[641]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 Department of Public Health gives Notice of Intended Action to rescind Chapter 79, "Public Health Nursing," to rescind Chapter 80, "Home Care Aide," and adopt a new Chapter 80, "Local Public Health Services," and to rescind Chapter 83, "Iowa Senior Health Program," Iowa Administrative Code.

This proposed rule making consolidates the rules in rescinded Chapters 79 and 80 into one new chapter. The rules in new Chapter 80 describe the requirements for the local public health services state grant. Local boards of health, boards of supervisors, and local public health agencies will have a single chapter to reference in administering the state grant. This rule making also eliminates Chapter 83 because the Iowa Senior Health Program no longer receives a separate appropriation. The Department intends to make the rules effective July 1, 2007, to coincide with the new fiscal year.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 20, 2007. Such written comments should be directed to Dawn Mouw, Department of Public Health, Bureau of Local Public Health Services, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

A public hearing to receive public comment will be held over the Iowa Communications Network (ICN) on Tuesday, February 20, 2007, from 10 to 11 a.m. at the following locations:

Ola Babcock Miller State Office Building  
East 12th and Grand Avenue  
Room 303  
Des Moines, Iowa

Iowa Lakes Community College  
2111 Hwy. 169 North  
Room 13  
Algona, Iowa

Buena Vista University - 2  
610 West 4th Street  
Room 7B, Information Technology Center  
Storm Lake, Iowa

Matilda J. Gibson Memorial Library  
200 W. Howard Street  
Creston, Iowa

Southern Prairie Area Education Agency 15-1  
2814 N. Court Street  
Ottumwa, Iowa

Department of Human Services  
411 3rd Street SE  
Suite 400  
Cedar Rapids, Iowa

West Union Community Library  
210 North Vine Street  
Heiserman Annex  
West Union, Iowa

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to participate in the public hearing and who may require special accommodations, such as those for hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 135.

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A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind and reserve **641—Chapter 79**.

ITEM 2. Rescind **641—Chapter 80** and adopt the following **new** chapter in lieu thereof:

## CHAPTER 80

## LOCAL PUBLIC HEALTH SERVICES

**641—80.1(135) Purpose.** The purposes of the local public health services state grant is to assist with assuring core public health functions and delivering essential public health services and to increase the capacity of local boards of health to promote healthy people and healthy communities.

**641—80.2(135) Definitions.** For the purposes of these rules, the following definitions apply:

“Administrative expense” means the costs incurred which are not identified readily and specifically with a program but which are necessary to the general operations of the authorized agency.

“Appropriation formula” means the method used to distribute the allocations of the state grant to each county.

“Authorized agency” means a contractor or a private non-profit or governmental organization delivering all or part of the local public health services funded by the local public health services state grant.

“Care coordination” means assessing a consumer’s need for care; developing, implementing and updating the plan of care; assigning a direct care worker to the case; assigning direct care worker duties, including specifying the frequency of task performance and the length and frequency of visits; providing referrals and follow-up; coordinating the case, including coordinating interagency and intra-agency communications; and maintaining records and reports.

“Community” means the aggregate of persons with common characteristics such as race, ethnicity, age, or occupation or other similarities such as location.

“Consumer” means an individual, family, or community utilizing public health services through the local public health services state grant.

“Contractor” means the local board of health or the county board of supervisors as agreed upon by the local board of health and the county board of supervisors.

“Core public health functions” means the scope of activities which serve as a broad framework for public health agencies. Core public health functions are:

1. Assessment, which means to regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs and personal health services and epidemiologic and other studies of health problems.

2. Policy development, which means efforts to serve the public interest in the development of comprehensive public health policies by promoting use of a scientific knowledge base in decision making about public health and by taking the lead in comprehensive public health policy development.

3. Assurance, which means public health efforts to assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging actions by

other entities (private or public sector), by requiring such action through regulation, or by providing services directly.

“Department” means the Iowa department of public health.

“Dependent nursing” means a function requiring the skills of a licensed registered nurse and the order of a physician according to 655—Chapter 6, Iowa Administrative Code.

“Direct care worker” means a trained and supervised individual who provides services, care, and emotional support to consumers.

“Essential public health services” means activities carried out by the authorized agency fulfilling core public health functions. Essential public health services are:

1. Monitoring health status and understanding health issues facing the community.

2. Protecting people from health problems and health hazards.

3. Giving people information they need to make healthy choices.

4. Engaging the community to identify and solve health problems.

5. Developing public health policies and plans.

6. Enforcing public health laws and regulations.

7. Helping people receive health services.

8. Maintaining a competent public health workforce.

9. Evaluating and improving programs and interventions.

10. Contributing to and applying the evidence base of public health.

“Evaluation” means the process to measure the effectiveness of interventions by measuring outcomes against previously established goals and objectives.

“Health promotion” means organizational, economic and environmental supports and education to stimulate healthy behaviors in individuals, groups or communities.

“Income” means all sources of revenue for the consumer and, if applicable, the consumer’s spouse.

“Independent nursing” means a function requiring the skills of a licensed registered nurse according to 655—Chapter 6, Iowa Administrative Code.

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

“Nonprofit” means an entity meeting the requirements for tax-exempt status under the United States Internal Revenue Code.

“Nursing process” means the steps completed by a skilled licensed registered nurse according to 655—Chapter 6, Iowa Administrative Code.

“Outcome” means an action or event that follows as a result or consequence of the provision of a service or support.

“Outcome measures” means the mathematical expression of the effect of an activity, product, or service on consumers and the public health. Outcome measures are used to determine the extent to which the activity, product, or service has impacted its intended audience and to identify progress toward the achievement of a goal.

“Personal health services” means health services delivered to individuals, including primary care, specialty care, hospital care, emergency care, and rehabilitative care. For the purpose of the local public health services state grant, personal health services include nursing (disease and disability), nursing (health maintenance), home care aide (home-maker), and home care aide (personal care) activities.

“Population-based services” means interventions or activities for a community to promote health and to prevent dis-

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ease, injury, disability, premature death, and exposure to environmental hazards.

“Poverty” means the level of adjusted income, factoring in resources and income, which is at or below 75 percent of the current federal poverty guidelines.

“Preservice education” means training required prior to assignment.

“Procedures” means the steps to be taken to implement a policy.

“Process” means a service or support provided by an authorized agency to a consumer that will allow the consumer to achieve an outcome. A process may include a written, formal, and consistent trackable method or an informal method that is not written but is trackable.

“Program,” for the purposes of the state grant, means local public health services, local board of health services, public health nursing services, and home care aide services.

“Protective services” means interventions or activities for a child or adult to alleviate, protect against, or prevent situations which could lead to abuse or neglect. For the purposes of the local public health services state grant, protective services require an order from the justice system or a referral from the department of human services.

“Quality improvement” means a process to review, plan and ensure standards of quality for public health services, interventions and activities.

“Resources” means unrestricted assets owned by a consumer and, if applicable, by the consumer’s spouse. The place of residence and one vehicle are exempt from consideration of resources.

“Restricted assets” means assets typically involving a penalty for early withdrawal such as IRA accounts, KEOGH accounts, 401(k) accounts, employee retirement accounts, and other deferred tax protected assets involving a penalty for early withdrawal. Restricted assets shall not be considered as a resource in the determination of a consumer’s financial liability for services.

“Service management” means recruiting, employing, providing workforce development to, scheduling, supervising and evaluating direct care workers; ensuring the competency of direct care workers; providing quality assurance for the program; and maintaining community relations.

“Sliding fee scale” means a scale of consumer fee responsibility based on an assessment of the consumer’s ability to pay all or a portion of the charge for services.

“State grant” means the local public health services state grant, which is the allocation of state funds appropriated annually by the Iowa general assembly for local public health services.

“Unrestricted assets” means assets that can be converted to cash for financial support. Unrestricted assets shall be considered in the determination of a consumer’s financial liability for services in the sliding fee calculation.

“Vulnerable population” means individuals or groups in the community who are unable to promote and protect their personal and environmental health.

“Workforce development” means the provision of training relevant to services or tasks assigned to direct care workers to enhance their knowledge and the delivery of public health services.

**641—80.3(135) Local public health services state grant.** The following applies to the state allocation for local public health services, local board of health services, public health nursing services, and home care aide services.

**80.3(1) Priority population.** The state grant serves all populations, with a priority to serve vulnerable populations in Iowa.

**80.3(2) Contractor assurance.** In order to receive funding, the contractor shall provide to the department assurance that authorized agencies meet all applicable federal, state, and local requirements. The contractor may directly provide or subcontract all or part of the delivery of services. The contractor shall assure that each authorized agency complies with Title IV of the Civil Rights Act, the American with Disabilities Act of 1990 (ADA), and Section 504 of the 1973 Rehabilitation Act and with affirmative action requirements. In addition, the contractor shall assure that each authorized agency has, at a minimum, the following:

- a. A governing board.
- b. Program policies and procedures, which shall, at a minimum, include:
  - (1) Admission and discharge.
  - (2) A consumer appeals process.
  - (3) Records appropriate to the level of consumer care.
- c. Personnel policies and procedures, which shall be reviewed and updated annually and communicated to staff. Personnel policies and procedures shall, at a minimum, include:
  - (1) Delegation of authority and responsibility for agency administration.
  - (2) Staff supervision.
  - (3) A staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to Iowa Code sections 232.69 and 235B.3.
  - (4) Conditions of employment including recruitment, selection, termination, promotion and compensation.
  - (5) A leave of absence policy.
  - (6) A grievance procedure.
  - (7) Annual employee performance evaluations.
  - (8) A nondiscrimination policy.
  - (9) An employee orientation program.
  - (10) A provision for career or workforce development.
  - (11) Fringe benefits.
  - (12) Employment application forms which comply with civil rights regulations.
  - (13) Current job descriptions which delineate qualifications, responsibilities and essential functions, reflect current responsibilities, and are dated.
  - (14) A current salary schedule.
- d. Fiscal management, which shall, at a minimum, include:
  - (1) An annual budget.
  - (2) Fiscal policies and procedures which follow generally accepted accounting practices.
  - (3) An annual audit which is performed according to usual and customary accounting principles and practices.
- e. A quality improvement plan. The plan shall address annual evaluation of public health programs, the public health agency, and professional development and shall include:
  - (1) Written goals, objectives, and performance measures that use appropriate data and are analyzed regularly.
  - (2) Strategies to monitor program and service compliance with local, state, and federal requirements.
  - (3) Evidence that programs and services align with community health priorities.
  - (4) Methods for reporting the outcomes of evaluation to stakeholders.
  - (5) Steps to determine the cost effectiveness of programs and services.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—80.4(135) Billing services to the local public health services state grant.** The contractor shall bill public health activities to the state grant based on the identified needs of the community for home care aide, public health nursing, local public health services and local board of health services or activities.

**80.4(1) Planning process.** Prior to the ensuing fiscal year application process, the contractor shall initiate a community planning process with input from community partners including but not limited to authorized agencies in order to identify the needs of the community.

**80.4(2) Alternative plan.** A plan is required for the alternative use of the state grant funds. The plan shall be based on an assessment of the community and shall be submitted by the contractor for approval by the department. The plan shall:

- a. Assure the department of the delivery of public health services that are the primary purpose of these funds.
- b. Identify essential public health services to be delivered.
- c. Describe the activity to be delivered.
- d. Identify target populations to be served.
- e. Identify outcome measures.

**80.4(3) Funder of last resort.** The state grant shall be billed as the last resort.

a. The state grant shall be billed the lower of the authorized agency's cost or charges.

b. The state grant shall not be billed for services eligible for third-party reimbursement (e.g., Medicare, Medicaid, private insurance, approved Iowa waivers, or other federal or state funds).

c. The state grant shall not be billed for the balance between the authorized agency cost or charge, whichever is lower, and the allowed reimbursement from a third-party payer.

d. The state grant shall not be billed for fees waived by the authorized agency.

**80.4(4) Cost analysis.** The authorized agency shall complete, at a minimum, an annual cost analysis, using a method approved by the department. The authorized agency shall maintain documentation to support the administrative cost allocation.

**80.4(5) Fees and donations.** Fees for services and donations shall be used to support local public health services.

a. Fees for services provided shall be based on a financial assessment which determines the consumer's financial responsibility. The financial assessment shall be updated annually by the authorized agency.

b. Sliding fee scale. The authorized agency shall establish a sliding fee scale that considers resources and income. The sliding fee scale shall be based on the charge for services. The following instructions apply to the use of the sliding fee scale:

(1) A fee shall be charged to consumers who have resources and income at or above 200 percent of federal poverty guidelines.

(2) No fee shall be charged to consumers who have resources and income at or below 75 percent of federal poverty guidelines.

(3) A sliding fee or full fee for home care aide (personal care); home care aide (homemaker), home care aide (home helper) and home care aide (chore); nursing (disease and disability); and nursing (health maintenance) shall be established.

(4) No fee shall be charged for protective services or communicable disease follow-up services.

(5) An authorized agency may charge a fee according to the authorized agency's policy for services other than those described in (4) if the consumer has resources and income below 200 percent but above 75 percent of federal poverty guidelines.

**80.4(6) Reallocation.** The department will annually determine the potential for unused funds from contracts. If funds are available, reallocation of the funds shall be at the discretion of the department.

**641—80.5(135) Right to appeal.**

**80.5(1)** When an authorized agency denies, reduces or terminates services funded by the state grant against the wishes of a consumer, the authorized agency shall notify the consumer and the contractor of the following:

- a. The action taken;
- b. The reason for the action; and
- c. The consumer's right to appeal.

If a consumer files an appeal, the authorized agency shall provide services to the consumer throughout the appeals process.

**80.5(2) Local appeals process.**

a. All contractors and their authorized agencies shall have a written local procedure to hear appeals. The local procedure shall, at a minimum, include:

- (1) The method of notification of the right to appeal;
- (2) The procedure for conducting the appeal;
- (3) Time limits for each step; and
- (4) The method of notification of the outcome of the local appeal and notification of the consumer's right to appeal to the state.

Notifications of the outcome of the local appeal shall include the facts used to reach the decision and the conclusions drawn from the facts to support the authorized agency's decision.

b. The written appeals procedure and the record of appeals filed (including the record and disposition of each) shall be available for inspection by authorized representatives of the Iowa department of public health.

**80.5(3) Appeal to department.**

a. If a consumer is dissatisfied with the decision of the local appeal, the consumer may appeal to the state. The appeal shall be made in writing by certified mail, return receipt requested, to the Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, within 15 days of the receipt of the local contractor's or authorized agency's appeal decision.

b. Department review. The department shall evaluate the appeal based upon the merits of the local appeal documentation. A department decision affirming, reserving, or modifying the local appeal decision shall be issued within 30 days of the receipt of all local appeal documentation. The department decision shall be in writing and sent by certified mail, return receipt requested, to the consumer and the contractor and the authorized agency.

**80.5(4) Further appeal.** The consumer may appeal the department's decision by submitting an appeal, within 10 days of the receipt of the department decision, to the Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Upon receipt of an appeal that meets contested case status, the department shall forward the appeal within 5 working days to the department of inspections and appeals pursuant to the rules adopted by the department of inspections and appeals regarding the transmission of contested cases. The continued proc-



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ess for appeals shall be governed by 641—Chapter 173, Iowa Administrative Code.

**641—80.6(135) Case management.** Case management is a process optimizing self-care capabilities of consumers and their families in gaining access to needed medical, social, and other services.

**80.6(1)** Case manager qualifications. Individuals performing case management shall meet one of the following criteria:

- a. Be a registered nurse licensed to practice in the state of Iowa.
- b. Possess a bachelor's degree in family and consumer science, education, social work or other health or human services field.
- c. Be a licensed practical nurse with a current Iowa license.
- d. Be a home care aide who has an equivalent of two years' experience and who is supervised by an individual who meets one of the criteria in paragraphs "a" to "c."

**80.6(2)** Case management services. Case management services shall be provided at the direction of the consumer and shall include:

- a. An initial assessment of the consumer's needs.
- b. Development and implementation of a service plan to meet the identified needs. A team composed of the consumer and the case manager and other entities, such as providers relevant to the consumer's service needs or family members, who may be included on the team at the discretion of the consumer.
- c. Face-to-face meetings with the consumer, which shall be held at least quarterly.
- d. Coordination and monitoring of delivery of services. Case managers do not provide direct services. Case managers link the consumer to appropriate resources and natural supports.
- e. Evaluation of outcomes.
- f. Reassessment and revision of the consumer's service plan, which shall be completed as needed, but no less than annually.
- g. Advocacy on behalf of the consumer.
- h. Communication with the consumer and team members regarding the consumer's progress toward achieving the goals of the service plan.
- i. Documentation which supports and demonstrates (1) the consumer's use of the case management process, (2) contacts with the consumer and with providers the consumer is using for services, and (3) other relevant information related to the coordination and delivery of case management services.
- j. Monitoring of the consumer's health, safety and welfare.
- k. An assurance that the consumer has a choice of providers.

**80.6(3)** Consumer records. Consumer records for case management, at a minimum, shall include the following:

- a. An initial assessment;
- b. A service plan;
- c. Reassessment;
- d. An emergency plan;
- e. Documentation of the following:
  - (1) Consumer and family contacts;
  - (2) The coordination and monitoring of services;
  - (3) Activities related to delivery of services (i.e., interdisciplinary team meetings);
  - (4) The evaluation of outcomes.

**641—80.7(135) Local board of health services.**

**80.7(1)** Program purpose. The purpose of this program is to increase the organizational capacity of county boards of health to develop conditions for healthy people and healthy communities through public health nursing, home care aide, core public health functions and population-based public health services in Iowa.

**80.7(2)** Program services. Local board of health services include public health essential services as defined in rule 641—80.2(135).

**80.7(3)** Appropriation to county board of health. The funding supports the efforts of local boards of health in addressing specific health priorities in each county. The appropriation to each county board of health is determined by the following formula: 30 percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state. The remaining 70 percent shall be allocated to each county according to the county's population based on the department's current published vital statistics.

**641—80.8(135) Local public health services.**

**80.8(1)** Program purpose. The purpose of this program is to increase local public health capacity by implementing core public health functions and essential public health services to address health inequalities. Local public health services address health inequalities by advocating for population-based policies and services to improve the health of the whole population in an equal way.

**80.8(2)** Program services. Local public health services include:

- a. Assisting local boards of health in providing services that address health problem priorities identified in each county's health improvement plan.
- b. Advancing the goals of Healthy Iowans 2010.
- c. Providing financial support for targeted areas of service relating to Iowa's elderly and disabled populations (i.e., home- and community-based services, protective services, nursing (disease and disability), nursing (health maintenance), home care aide (personal care), home care aide (home helper), home care aide (chore) or home care aide (homemaker)).

**80.8(3)** Appropriation to county board of health. The appropriation to each county board of health is determined by the following formula: 40 percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state. The remaining 60 percent shall be divided to each county according to the county's population based on the department's current published vital statistics.

**641—80.9(135) Public health nursing services.** Public health nursing is a specialized nursing practice that combines the science and art of public health with the science and art of nursing.

**80.9(1)** Program purpose. The purpose of this program is to improve the health of the entire community, prevent illness, enhance the quality of life, and provide leadership to safeguard the health and wellness of the community. The program implements core public health functions and essential public health services to reduce, prevent or delay inappropriate institutionalization of consumers and to preserve families.

**80.9(2)** Scope. The practice of public health nursing is population-based with the goals of promoting health and preventing disease and disability for all people through the creation of conditions in which people can be healthy. For the purposes of the state grant, public health nursing services in-

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clude both personal health services and population-based services.

**80.9(3)** Standards of practice of public health nursing are consistent with the nursing process and include:

a. **Assessment.** The public health nurse assesses the health status of populations using data, community resources identification, input from the population, and professional judgment.

b. **Diagnosis.** The public health nurse analyzes collected assessment data and partners with people to attach meaning to those data and determine opportunities and needs.

c. **Outcome identification.** The public health nurse participates with other community partners to identify expected outcomes in the populations and their health status.

d. **Planning.** The public health nurse promotes and supports the development of programs, policies, and services that provide interventions that improve the health status of populations.

e. **Evaluation.** The public health nurse evaluates the status of the population.

**80.9(4)** Public health coordinator/supervisor qualifications.

a. Individuals performing public health coordination/supervision shall meet one of the following criteria:

(1) Possess a bachelor's degree or higher from an accredited college or university in public health, health administration, nursing or other applicable field and a minimum of two years of related experience; or

(2) Be a registered nurse licensed to practice by the Iowa board of nursing who has a minimum of two years of related experience and has completed a course approved by the department within six months of employment.

b. By January 1, 2008, individuals who hold the position of public health coordinator/supervisor on or before June 30, 2007, shall meet one of the criteria in paragraph "a."

**80.9(5)** Appropriation. The appropriation to each county is determined by the following formula: 25 percent of the total amount to be allocated shall be divided so that an equal amount is available for use in each county in the state. The remaining 75 percent shall be divided so that the share available for use in each county is proportionate to the number of elderly and low-income persons living in the county in relation to the total number of elderly and low-income persons living in the state.

**641—80.10(135) Home care aide services.** Home care aide services are intended to enhance the capacity of consumers to attain or maintain their independence. Trained and supervised direct care workers provide services to consumers who, due to the absence, incapacity or limitations of the usual homemaker, are experiencing stress or crisis.

**80.10(1)** Program purpose. The purpose of this program is to reduce, prevent or delay inappropriate institutionalization of consumers and to preserve families through the provision of supportive services by direct care workers who have completed training and are professionally supervised.

**80.10(2)** Scope. The direct care worker provides services for consumers by following a plan of care identifying assigned tasks. A direct care worker participates in activities to safeguard the health and wellness of the community and to implement core public health functions and essential public health services.

**80.10(3)** Authorized agency.

a. The authorized agency shall establish policies for supervision of direct care workers.

b. The authorized agency shall ensure that each direct care worker has completed adequate training and demonstrated competency for each task assigned. The required preservice education for direct care workers is outlined in the following chart:

Level of Direct Care Worker	Direct Care Worker I (equivalent to home helper)	Direct Care Worker II (equivalent to homemaker)	Direct Care Worker III (equivalent to personal care)	Direct Care Worker IV (equivalent to protective worker)	Direct Care Worker V (equivalent to chore)
Scope of Services	Under the supervision of a professional, provides services to protect the environment for a self-directing consumer to preserve a safe and sanitary home.	Under the supervision of a professional, provides services primarily in the homes of consumers who, due to the absence, incapacity or limitations of the usual homemaker or caregiver, are experiencing stress or crisis, to promote consumer health and a safe, stable, sanitary home environment.	Under the direction of nursing or medical staff, provides health-related services such as administering oral medications; checking the consumer's pulse rate, temperature, and respiration rate; helping with simple prescribed exercises; keeping the consumer's rooms neat; changing non-sterile dressings; providing skin care and back rubs; assisting with braces and artificial limbs; or assisting the consumer in using medical equipment.	Provides services intended to stabilize a child's or adult's residential environment and relationships with relatives, caretakers, and other consumers and household members in order to alleviate a situation involving abuse or neglect or to otherwise protect the child or adult from a threat of abuse or neglect; also provides services intended to prevent situations which could lead to abuse or neglect of a child or adult when a definite potential for abuse or neglect exists.	Provides services to a consumer necessary to enable the consumer to live independently and that encompass heavier cleaning tasks, including outside maintenance and chores. For chore services, there is no physical contact between the consumer and the direct care worker.

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Level of Direct Care Worker	Direct Care Worker I (equivalent to home helper)	Direct Care Worker II (equivalent to homemaker)	Direct Care Worker III (equivalent to personal care)	Direct Care Worker IV (equivalent to protective worker)	Direct Care Worker V (equivalent to chore)
<b>Services or tasks assigned include, but are not limited to:</b>	Essential shopping and housekeeping	Money management, household management, consumer education, transportation, meal preparation, family preservation, family management, child care, assistance with personal care, respite, essential shopping, and housekeeping	Personal care and rehabilitative therapies	Family preservation, family management, money management, child care, and transportation	Heavy household cleaning, garbage removal, snow shoveling, changing light bulbs, putting screens on windows, covering and uncovering air conditioners, lawn care and mowing
<b>Preservice Education</b>	4 hours on role of the home care aide; 2 hours on communication; 2 hours on understanding basic human needs; 2 hours on maintaining a healthy environment; 2 hours on infection control in the home; and 1 hour on emergency procedures	60-hour home care aide training: A Model Curriculum and Teaching Guide for the Instruction of the Homemaker-Home Health Aide <b>OR</b> 75-hour certified nurse aide course and Direct Care Worker I preservice education <b>OR</b> Home care aide training and prior approval by the department	60-hour home care aide training: A Model Curriculum and Teaching Guide for the Instruction of the Homemaker-Home Health Aide <b>OR</b> 75-hour certified nurse aide course and Direct Care Worker I preservice education <b>OR</b> Home care aide training and prior approval by the department	Training in a department-approved curriculum	Direct care worker possesses skills for tasks assigned
<b>Workforce Development (per calendar year)</b>	3 hours prorated to employment	12 hours prorated to employment	12 hours prorated to employment	12 hours prorated to employment	None
<b>Competency</b>	Documented skills for assigned tasks	Documented skills for assigned tasks	Documented skills for assigned tasks	Documented skills for assigned tasks	Documented skills for assigned tasks

**80.10(4)** Professional staff as providers of home care aide services. An individual who is in the process of receiving or who has completed the training required for LPN or RN licensure or who possesses an associate's degree or higher in social work, sociology, home economics or other health or human services field may be assigned to provide home care aide services if the following conditions are met:

- a. Services or tasks assigned are appropriate to the individual's prior training.
- b. Orientation to home care is conducted. Orientation includes adaptation of the individual's knowledge and skills from prior education to the home setting and to the role of the home care aide.

**80.10(5)** Care coordinator and service manager qualifications.

a. An individual performing care coordination or service management shall meet one of the following criteria:

- (1) Be a registered nurse licensed to practice in the state of Iowa.
- (2) Possess a bachelor's degree in family and consumer science, education, social work or other health or human services field.
- (3) Be a licensed practical nurse with a current Iowa license.

b. A home care aide with an equivalent of two years' experience may be delegated care coordination/service management duties as long as a qualified individual who meets one of the criteria in paragraph "a" retains responsibility and provides supervision and evidence of supervision.

**80.10(6)** A qualified care coordinator or service manager may provide direct care services as appropriate to the individual's level of education and competency for the assignment.

**80.10(7)** The service manager's scheduling duty may be delegated to an individual not possessing one of the qualifications in paragraph 80.10(5)"a" provided that a qualified individual who meets one of the qualifications in 80.10(5)"a" retains responsibility and provides supervision and evidence of supervision.

**80.10(8)** Consumer records. The authorized agency shall maintain records for each consumer. The records shall include:

- a. An initial assessment.
- b. A plan of care.
- c. Assignment of direct care worker.
- d. Assignment of tasks.
- e. Reassessment.
- f. Update of plan of care.

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- g. Direct care worker narrative notes.
- h. Documented supervision.

**80.10(9)** Appropriation. The appropriation to each county is determined by the following formula: 15 percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state. The following percentages of the remaining 85 percent shall be allocated to each county according to that county's proportion of state residents with the following demographic characteristics:

- a. Sixty percent according to the number of elderly persons living in the county.
- b. Twenty percent according to the number of persons below the federal poverty guidelines living in the county.
- c. Twenty percent according to the number of substantiated cases of child abuse in the county during the three most recent years for which data is available.

These rules are intended to implement Iowa Code chapter 135.

ITEM 3. Rescind and reserve **641—Chapter 83**.

## ARC 5684B

### PUBLIC HEALTH DEPARTMENT[641]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 135.150(2)"b," the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 162, "Gambling Treatment Program," and adopt new Chapter 162, "Licensure Standards for Problem Gambling Treatment Programs," Iowa Administrative Code.

The proposed rules provide the Department the ability to license problem gambling treatment programs in Iowa.

These rules are subject to waiver pursuant to 641—Chapter 178.

Any interested person may make written comments on these rules on or before February 20, 2007, addressed to Bob Kerksieck, Division of Behavioral Health and Professional Licensure, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; E-mail [rkerksie@idph.state.ia.us](mailto:rkerksie@idph.state.ia.us).

Also, a public hearing will be held on Tuesday, February 20, 2007, from 9 to 11 a.m., at which time persons may present their views either orally or in writing. At the hearing, the Department will ask those persons present to give their names and addresses for the record and to confine their remarks to the subject of the rules. This hearing will originate from the sixth floor of the Lucas State Office Building in Des Moines and will be accessible over the Iowa Communications Network (ICN) from the following sites:

ICN Conference Room, Sixth Floor  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa

Information Center, Kelinson Room  
Bettendorf Public Library  
2950 Learning Campus Drive  
Bettendorf, Iowa

Department of Human Services  
417 East Kaneshville Blvd.  
Council Bluffs, Iowa

Fort Dodge Public Library  
424 Central Avenue  
Fort Dodge, Iowa

West Delaware High School  
701 New Street  
Manchester, Iowa

Careers Building, Room 106  
North Iowa Area Community College - 1  
500 College Drive  
Mason City, Iowa

Sioux City Public Library  
529 Pierce Street  
Sioux City, Iowa

Spencer Public Library  
21 East Third Street  
Spencer, Iowa

Pinecrest Office Building  
Department of Human Services  
1407 Independence Avenue  
Waterloo, Iowa

Trustee Hall Room 331  
Southeastern Community College - 2  
1500 West Agency Road  
West Burlington, Iowa

Any person who plans to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department to advise of specific needs.

These rules are intended to implement Iowa Code section 135.150.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind **641—Chapter 162** and insert in lieu thereof the following **new** chapter:

#### CHAPTER 162 LICENSURE STANDARDS FOR PROBLEM GAMBLING TREATMENT PROGRAMS

##### **641—162.1(135) Definitions.**

"Admission" means the point in an individual's relationship with the problem gambling treatment program at which the problem gambling treatment screening process has been completed and the individual is eligible to receive problem gambling treatment services.

"Affiliation agreement" means a written agreement between the governing body of the problem gambling treatment program and another organization under the terms of which specified services, space or personnel are provided to one organization by the other, but without exchange of moneys.

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“Applicant” means any problem gambling treatment program that has applied for a license or for license renewal.

“Application” means the process through which a problem gambling treatment program applies for a license or for license renewal as outlined in rule 162.5(135).

“Assessment” means the ongoing process of identifying a diagnosis, ruling out other diagnoses, and determining the care needed by the problem gambling client. The assessment shall evaluate the problem gambling client’s strengths and needs for the purpose of defining a course of treatment, including collecting additional client information in order to develop a treatment plan.

“Client” means an individual whose problem gambling treatment screening identifies a need for problem gambling treatment services.

“Clinical director” means the person(s) designated by the problem gambling treatment program who provides clinical oversight and who, by virtue of education, training and experience, is capable of supervising the screening and assessment of the problem gambling client to approve the treatment plan most appropriate for the client.

“Clinical oversight” means oversight provided by an individual who, by virtue of education, training and experience, is capable of supervising the clinical staff members who assess the psychosocial history of a problem gambling client to determine the treatment plan most appropriate for the client. The problem gambling treatment program shall designate the person who shall provide clinical oversight.

“Concerned person” means a person affected by the problem gambling behavior of an individual who needs problem gambling treatment services or a person willing to become involved in the treatment of an individual who gambles excessively. The concerned person may be either a relative or nonrelative of the individual.

“Confidentiality” means the confidentiality of records to be maintained by a problem gambling treatment facility, which shall conform to Iowa Code chapter 228, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and other relevant provisions of federal and state law.

“Contract” means a formal legal document adopted by the governing body of the problem gambling treatment program and any other organization, agency, or individual which specifies services, personnel or space to be provided to the problem gambling treatment program as well as the moneys to be expended in the exchange.

“Counselor” means a licensed or certified practitioner in a counseling-related field including: an advanced certified alcohol and drug counselor (ACADC) or certified alcohol and drug counselor (CADC) or CADC equivalent; a certified criminal justice professional (CCJP); a gambling counselor certified by the National Council on Problem Gambling (NCPG); a gambling treatment counselor (CGTC) certified by the Iowa board of certification (IBC); a licensed bachelor social worker (LBSW), a licensed independent social worker (LISW), and a licensed master social worker (LMSW) licensed under Iowa Code chapters 154C and 147; a licensed marital and family therapist (LMFT) licensed under Iowa Code chapters 154D and 147; a licensed mental health counselor (LMHC) licensed under Iowa Code chapters 154D and 147; an advanced registered nurse practitioner (ARNP) licensed under Iowa Code chapters 152 and 147; a psychologist licensed under Iowa Code chapters 154B and 147; a board-certified psychiatrist; or another licensed or certified professional approved by the department.

“Culturally and environmentally specific” means integrating into the problem gambling assessment and treatment process the ideas, customs, beliefs, and skills of a given population, as well as an acceptance, awareness, and celebration of diversity regarding conditions, circumstances and influences surrounding and affecting the development of an individual or group.

“Department” means the Iowa department of public health.

“Designee” means the staff person or counselor who is delegated tasks, duties and responsibilities normally performed by the clinical director, executive director or department director.

“Director” means the director of the Iowa department of public health.

“Discharge planning” means the process, beginning at the time of the client’s admission for treatment in a problem gambling treatment program, of determining a client’s continued need for problem gambling treatment services and of developing a plan to address the ongoing posttreatment needs of the client. Discharge planning may include a document identified as a discharge plan.

“Division” means the division of behavioral health and professional licensure in the Iowa department of public health.

“Division director” means the director of the division of behavioral health and professional licensure in the Iowa department of public health.

“Executive director” or “program director” means an individual who is hired by the problem gambling treatment program governing body to manage the overall operations of the program in accordance with the governing body’s established policies.

“Facility” means a hospital, institution or program licensed under Iowa Code section 135.150 providing treatment for problem gamblers. “Facility” also means the physical areas including grounds, buildings, or portions of buildings under direct administrative control of the program.

“Governing body” means the individual(s), group, or agency that has ultimate authority and responsibility for the overall operation of the problem gambling treatment facility.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

“Intake” means gathering additional problem gambling treatment information at the time of the problem gambling assessment process.

“Licensee” means any problem gambling treatment program licensed by the department.

“Licensure” means the issuance of a license by the department which validates the licensee’s compliance with problem gambling treatment program standards set forth in 641—Chapter 162 and authorizes the licensee to operate a problem gambling treatment program in the state of Iowa.

“Licensure weighting report” means the problem gambling treatment program report that is used to determine the type of license for which a problem gambling treatment program qualifies based on point values assigned to licensure standards reviewed and the total number of points attained. In addition, the problem gambling treatment program shall attain a minimum percent value in each of three categories to qualify for a license as follows: 95 percent or higher rating in clinical, administrative and programming for a three-year license; 90 percent or higher rating in clinical, administrative and programming for a two-year license; or less than 90 percent but not less than 70 percent rating in clinical, administrative and programming for a one-year license.

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“Outpatient treatment” means an organized problem gambling outpatient, nonresidential treatment service. Services usually are provided in regularly scheduled individual, group and family sessions.

“Physician” means any individual licensed under Iowa Code chapter 148, 150, or 150A.

“Primary care modality” means a problem gambling treatment component or modality, including problem gambling outpatient treatment.

“Problem gambler” means an individual affected by problem gambling who has been assessed as habitually lacking impulse control while gambling to the extent that the individual’s life is substantially endangered or that the individual’s social or economic functioning is substantially disrupted.

“Problem gambling” means a pattern of gambling behavior which may compromise, disrupt or damage family, personal or vocational pursuits.

“Program” means any partnership, corporation, association, governmental subdivision or public or private organization that provides problem gambling treatment services.

“Protected class” means any class of people that requires special legislation to ensure equality.

“Quality improvement” means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of problem gambling treatment program services to improve client care and resolve identified problems.

“Rehabilitation” means the restoration of a client to the fullest physical, mental, social, vocational, and economic functioning of which the client is capable. Rehabilitation may include, but is not limited to, medical treatment, counseling and therapy, occupational training, job counseling, social and domestic rehabilitation and education.

“Relapse” means the recurrence of symptoms of problem gambling after a period of improvement. Relapse may include the resumption of problem gambling or worsening of symptoms.

“Screening” means the process by which a client is determined appropriate and eligible for admission to a particular problem gambling treatment program.

“Sentinel event” means any event which occurs at a problem gambling treatment program or to program staff members or clients who are currently active or within one week of discharge from the program. Sentinel events include the unexpected incidence or serious risk of death or serious physical or psychological injury or any event which may be subject to litigation.

“Staff member” means any person who provides services to the problem gambling treatment program on a regular basis as a paid employee, agent or consultant or as a volunteer.

“Standards” means criteria that represent the minimal qualifications required of a problem gambling treatment program for the issuance of a license.

“Substance abuse” means any use of illegal chemical substances or the abuse of legal substances or the use of chemical substances to the extent that the person’s health is substantially impaired or endangered or that the person’s social or economic functioning is substantially disrupted.

“Treatment” means the broad range of planned and continuing problem gambling treatment services, including diagnostic screening and assessment, counseling, medical, psychiatric, psychological, and social services, which may be extended to problem gambling clients or concerned persons, and which is geared toward influencing the behavior of clients or concerned persons in order to facilitate rehabilitation.

**641—162.2(135) Licensure.** The department shall issue a single license to each qualifying problem gambling treat-

ment program. The license shall delineate one or more categories of services the problem gambling treatment program is authorized to provide. Although a problem gambling treatment program may have more than one facility, the department shall issue only one license to the program.

**641—162.3(135) Type of licenses.**

**162.3(1) Issuance of licenses.**

a. An initial license may be issued for 270 days. The department shall not renew or extend an initial license issued for 270 days.

b. Licenses shall expire 270 days or one, two or three calendar years from the date of issuance, and the department shall renew a one-, two- or three-year license only on application.

c. A license may be renewed for one, two or three years.

d. The department shall renew a one- or two-year license contingent upon demonstration by the problem gambling treatment program of continued compliance with licensure standards and in accordance with the licensure weighting report criteria.

e. The department shall renew a three-year license contingent upon demonstration by the problem gambling treatment program of substantial continued compliance with licensure standards and in accordance with the licensure weighting report criteria.

f. Failure to apply for renewal of the license within the 30-day grace period after the expiration date shall result in immediate termination of the license and shall require reapplication.

**162.3(2) Corrective action.** Following the issuance of a license, the problem gambling treatment program may be requested by the department to provide a written plan of corrective action and to bring into compliance all areas found in noncompliance during an on-site visit. The department shall place the corrective action plan in the problem gambling treatment program’s permanent file with the department and use it as a reference during future on-site inspections.

**641—162.4(135) Nonassignability.**

**162.4(1)** A license issued by the department for the operation of a problem gambling treatment program applies both to the applicant program and to the facility at which the program is to be operated.

**162.4(2)** Licenses are not transferable.

**162.4(3)** Any person or other legal entity acquiring a currently licensed program for the purpose of operating a problem gambling treatment program shall apply as provided in rule 162.5(135) for a new license.

**162.4(4)** Any person or legal entity licensed by the department that plans to fundamentally alter the treatment philosophy or transfer the program to a different premises must notify the department 30 days prior to the action in order for the department to review the treatment philosophy or site change and determine appropriate action.

**162.4(5)** A licensee shall, if possible, notify the department of impending closure of the licensed problem gambling treatment program at least 30 days prior to closure. The licensee shall be responsible for the removal and placement of clients and for the preservation of all records. Upon closing all facilities and terminating all service delivery activities, the licensee shall immediately return the license to the department.

**641—162.5(135) Application procedures.**

**162.5(1)** The department shall provide an application form to all applicants for licensure.

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a. Any problem gambling treatment program applying for an initial license shall submit complete application information to the department and shall be inspected by the department prior to the program's opening and offering services to clients.

b. Any problem gambling treatment program that notifies the department within 60 days after [insert the effective date of these rules] that the program is currently operating in Iowa and that provides documentation verifying operation of a program in Iowa shall be exempt from the on-site inspection requirement for initial licensure before the program opens and admits clients for services. Documentation that a program is operating in Iowa may include a current contract with the department to provide problem gambling treatment services, a mission statement specifying that the program offers problem gambling treatment services, governing board bylaws specifying that the program is providing problem gambling treatment services, or articles of incorporation specifying that the program is providing problem gambling treatment services. Problem gambling treatment programs that qualify under this paragraph shall apply for licensure pursuant to this chapter within 60 days of [insert the effective date of these rules]. These programs may continue to operate until their licenses are approved or denied by the department.

c. For initial applicants, if technical assistance has been provided to the problem gambling treatment program by the department, and if enough information was gathered during the technical assistance visit to determine that the program is eligible to receive an initial 270-day license, then the on-site inspection for initial licensure may be waived at the discretion of the department.

d. The division shall prepare a report with a recommendation for licensure to be presented to the department within 30 days of the on-site inspection.

**162.5(2)** Application information for problem gambling treatment programs. An applicant for licensure shall submit to the Iowa Department of Public Health, Division of Behavioral Health and Professional Licensure, Lucas State Office Building, Des Moines, Iowa 50319, the following information on forms provided by the department. The department shall not consider an application for licensure complete until the following information is received by the department from the problem gambling treatment program:

- a. The name and address of the applicant for licensure.
- b. The name and address of the executive director or program director of the problem gambling treatment program.
- c. The names, titles, dates of employment, education, and years of recent job-related experience of staff members and a copy of the table of organization. When multiple treatment modalities and facilities exist, the relationship between treatment modalities and facilities must be shown and a description of the problem gambling treatment screening and training process for volunteer workers must be included.
- d. The names and addresses of members of the governing body, sponsors, or advisory boards of the problem gambling treatment program and current articles of incorporation and bylaws.
- e. The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with which the problem gambling treatment program has a direct contractual or affiliation agreement.
- f. A description of the treatment services provided by the problem gambling treatment program and a description of the weekly activities for each treatment modality or component.

g. Copies of reports substantiating compliance with federal, state and local rules and laws for each facility, including appropriate Iowa department of inspections and appeals rules, state fire marshal rules and fire ordinances, and appropriate local health, fire, occupancy code, and safety regulations.

h. Information required under Iowa Code section 135C.33 for programs that admit juveniles.

i. Fiscal management information including the most recent audit or opinion of an auditor and the governing body minutes to reflect approval of the audit, and budget and insurance coverage. If this information is already on file with the department, the problem gambling treatment program does not need to resubmit this information.

j. Documentation of insurance coverage for professional and general liability, workers' compensation, and fidelity bond or crime and dishonesty insurance.

k. For programs using the gambling treatment reporting system (GTRS), the address and primary facility code of each office, facility, or program location.

l. Current, complete written policies and procedures manual to include the staff development and training plan and personnel policies.

The problem gambling treatment program shall complete the application information for an initial application for licensure and the department shall review the application information prior to a scheduled on-site inspection.

**162.5(3)** Renewal. The problem gambling treatment program shall submit an application for renewal on forms provided by the department at least 60 calendar days before expiration of the current license.

**162.5(4)** Application update or revision for existing licensed programs.

a. The problem gambling treatment program shall notify the department of the need for and shall request an application for a licensure update or revision.

b. The problem gambling treatment program shall apply for licensure update or revision 30 days prior to any planned change(s) of address of offices, facilities, or program locations or any additions or deletions of the type(s) of services or programs provided and licensed.

c. The problem gambling treatment program shall submit to the department within 10 working days from the date the forms are received a revised licensure application form which shall reflect changes of address of offices, facilities, or program locations or additions or deletions of the type(s) of services or program(s) provided or licensed to the division.

d. When applicable, as determined by the department, an on-site licensure inspection of a new component, service, program or facility may be conducted by the department within six months of the receipt of the updated or revised application or during an existing licensed problem gambling treatment program's scheduled relicensure on-site inspection, whichever occurs first.

**641—162.6(135) Application review.** An applicant for licensure shall submit a completed application to the department within 30 days from the date the forms are received. The department shall review the application for completeness and request any additional material as needed. The department shall notify applicants that fail to return the application forms on time. Iowa Code section 135.150 requires that all state-funded problem gambling treatment programs be licensed.

**641—162.7(135) Inspection of licensees.** The department shall inspect the problem gambling treatment program and review the policies and procedures utilized by the program. The

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inspection may include case record audits and interviews with problem gambling treatment staff members and clients, consistent with the confidentiality safeguards of state and federal law.

**162.7(1)** Technical assistance. The department shall visit all problem gambling treatment programs applying for an initial license to operate a program in the state of Iowa for the purpose of providing needed technical assistance regarding the licensure criteria and procedures. The problem gambling treatment program may waive technical assistance in order to expedite the licensing process. The problem gambling treatment program shall submit requests for additional technical assistance in writing to the department.

a. Following the issuance of a license, the problem gambling treatment program may request technical assistance from the department to bring into conformity standards reported to be in noncompliance with these rules.

b. The department shall schedule technical assistance within 30 days of the applicant's request depending on the availability of staff.

c. The department may also request that technical assistance be provided to the problem gambling treatment program if deficiencies are noted during an on-site technical assistance visit.

**162.7(2)** On-site inspection for licensure. The department shall schedule an on-site inspection for licensure after the department's receipt of the problem gambling treatment program's completed application to operate a program in Iowa. The department shall not be required to provide advance notice to the problem gambling treatment program of the on-site inspection for licensure.

a. The on-site inspection team shall consist of designated members of the division staff.

b. Team members shall inspect the problem gambling treatment program in order to verify information contained in the application and ensure compliance with all laws, rules and regulations.

c. The inspection team shall send a written report, return receipt requested, of its findings to the applicant within 20 working days after the on-site inspection.

**162.7(3)** Effective date of license. The effective date of a license shall begin on the date the department reviews the problem gambling treatment program's written application and licensure weighting report and acts to issue a license.

**641—162.8(135) Licensure renewal.** Upon approval of an application for licensure renewal, the department shall renew the license pursuant to rule 162.5(135).

**641—162.9(135) Corrective action plans.**

**162.9(1)** Corrective action plans for 270-day license for problem gambling treatment programs.

a. Problem gambling treatment programs approved by the department for a 270-day license shall submit a corrective action plan to the division director no later than 30 days following notice that the program has received a 270-day license.

b. The corrective action plan shall include, but not be limited to:

(1) Specific problem areas.

(2) A delineation of corrective measures to be taken by the problem gambling treatment program for each problem area.

(3) A delineation of target dates for completion of corrective measures for each problem area.

c. The department shall review the implemented corrective action during the required follow-up on-site visit and is-

sue a subsequent report to the division director and the program.

**162.9(2)** Corrective action plans for one- and two-year licensure programs.

a. Problem gambling treatment programs approved by the department for a one- or two-year license shall submit a corrective action plan for those standards found to be in non-compliance, if applicable, following an on-site inspection.

b. The department shall not be required to offer technical assistance on a corrective action plan for one- and two-year licenses.

c. The problem gambling treatment program approved by the department for a one- or two-year license shall submit a corrective action plan within 30 days of receipt of the licensure inspection report.

**641—162.10(135) On-site inspection for initial licensure.**

**162.10(1)** On-site inspection for licensure. The on-site inspection for licensure of an initial applicant shall occur prior to the problem gambling treatment program's opening and admitting clients (see 162.5(1) for details regarding exemption from this subrule). The department shall not be required to provide advance notice to the program of the on-site inspection for licensure.

a. The on-site inspection team shall consist of a designated member(s) of the division staff.

b. The team shall inspect the applicant program in order to verify information contained in the application and to ensure compliance with all laws, rules and regulations.

c. The inspection team shall send a written report, return receipt requested, of its findings to the applicant within 20 working days after completion of the inspection.

d. The application information for an initial application for licensure shall be completed by the program and reviewed by the department prior to a scheduled on-site inspection.

**162.10(2)** Upon approval of an application for licensure, the department shall issue a license.

**641—162.11(135) Denial, suspension, revocation, or refusal to renew a license.**

**162.11(1)** The department may deny, suspend, revoke or refuse to renew a license for any of the following reasons:

a. Failure to adequately complete the application or renewal application process or submission of fraudulent or misleading information on the initial or renewal application form.

b. Failure to obtain the minimum score required for a one-, two- or three-year license.

c. Violation by a problem gambling treatment program, program employee or agent of the employee of any statute or rule pertaining to problem gambling treatment programs, including a violation of any provision of this chapter.

d. Failure to comply with licensure, inspection, health, fire, occupancy, safety, sanitation, zoning, or building codes or regulations required by federal, state, or local law.

e. The commission of or permitting or aiding or abetting the commission of an unlawful act within a facility.

f. Conviction of a member of the problem gambling treatment program governing body, a director, administrator, chief executive officer, or other managing staff member, of a felony or misdemeanor involving the management or operation of the facility or directly related to the operation or integrity of the facility.

g. Use of untruthful or improbable statements in advertising.



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h. Conduct or practices found by the department to be detrimental to the general health, safety, or welfare of a client or member of the community in which the program operates.

i. Violation of a client's confidentiality or willful, substantial, or repeated violation of a client's rights.

j. An attempt to defraud a problem gambling client, potential client, or third-party payor.

k. Inappropriate conduct by a problem gambling treatment program employee, including sexual contact with a client of the program.

l. Use of treatment techniques which endanger the health, safety, or welfare of a client.

m. Discrimination or retaliation against a client or employee who has submitted a complaint or information to the department.

n. Failure to allow an employee or agent of the department access to the facility for the purpose of inspection, investigation, or other information collection duties necessary to the performance of the department's duties.

o. Commission of an act to defraud the state of Iowa.

p. Failure to submit an acceptable written plan of corrective action or failure to comply with a written plan of corrective action issued pursuant to subrule 162.3(2), rule 162.9(135), or paragraph 162.16(4)"c."

q. Violation of an order of the department or violation of the terms or conditions of a consent agreement or informal settlement between a problem gambling treatment program and the department.

r. Failure to complete in full the application for licensure or failure to submit the information required by rule 162.5(135).

**162.11(2)** Initial notice from the department. When the department determines to deny, suspend, revoke or refuse to renew a license, the department shall notify the licensee by certified mail, return receipt requested, of the department's intent to deny, suspend, revoke, or refuse to renew the license and of the changes required to avoid denial, suspension, revocation or refusal to renew a license. The initial notice shall further provide the licensee the opportunity to submit to the department either a written plan of corrections or written objections within 20 days from the receipt of notice from the department.

**162.11(3)** Correction of deficiencies; objections.

a. Written plan of corrections. If a licensee submits a written plan of corrections, the licensee shall have 60 days from the date of submission to show compliance with the plan of corrections. The licensee shall submit any information to the department that the licensee deems pertinent to verify compliance with the plan of corrections.

b. Objections. If a licensee submits written objections, the licensee shall submit to the department any information that the licensee deems pertinent to support the licensee's defense.

**162.11(4)** Decision of the department. Following receipt of a written plan of corrections and expiration of the 60-day time period, or following receipt of written objections, or when objections or a notice of corrections has not been received within the 20-day time period, the department may determine whether to proceed with disciplinary action.

**162.11(5)** Notice of decision and opportunity for contested case hearing.

a. When the department determines to deny, suspend, revoke or refuse to renew a license, the department shall give the licensee written notice by certified mail, return receipt requested.

b. The licensee may request a hearing on the determination. The request must be in writing and received by the department within 30 days of receipt of the notice issued by the department. Failure to request a hearing by the deadline shall result in final action by the department.

**162.11(6)** Summary suspension. If the department finds that the health, safety or welfare of the public is endangered by continued operation of a problem gambling treatment program, summary suspension of a license may be ordered pending proceedings for revocation or other actions. These proceedings shall be promptly determined and instituted.

**641—162.12(135) Contested case hearings.** Any problem gambling treatment program that wishes to contest the denial, suspension, revocation or refusal to renew a license shall be afforded an opportunity for a hearing before an administrative law judge from the department of inspections and appeals. The department shall notify the problem gambling treatment program in writing, return receipt requested, of the date of the hearing not less than 30 days before the hearing.

**162.12(1)** Failure to appear. If a party fails to appear in a contested case hearing proceeding after proper service of notice, the administrative law judge shall, in such a case, enter a default judgment against the party failing to appear.

**162.12(2)** Conduct of hearing. The administrative law judge shall afford all parties opportunity to respond to and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

a. The hearing shall be informal and all relevant evidence shall be admissible. Effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. The hearing shall be expedited and the interests of the parties shall not be prejudiced substantially. Any part of the evidence may be required to be submitted in verified written form.

b. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

c. Witnesses present at the hearing shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

d. The record in a contested case shall include:

(1) All pleadings, motions and intermediate rulings.

(2) All evidence received or considered and all other submissions.

(3) A statement of all matters officially noticed.

(4) All questions and offers of proof, objections and rulings therein.

(5) All proposed findings and exceptions.

(6) Any decision, opinion or report by the officer presiding at the hearing.

e. Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the problem gambling treatment program for at least five years from the date of decision.

f. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

**162.12(3)** Continuance. For good cause, the administrative law judge may either continue a hearing beyond the time originally scheduled or may recess the hearing. Requests for continuance shall be made to the administrative law judge in

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writing at least three days prior to the scheduled hearing date. The administrative law judge shall not grant continuances less than three days before the hearing except for exigent circumstances.

**162.12(4) Decision.** Findings of fact shall be based solely on the evidence in the record and upon matters officially noticed in the record.

a. The decision of the administrative law judge shall be a final decision unless there is an appeal to the department within 20 days of the receipt of the decision.

b. A proposed or final decision or order in a contested case hearing shall be in writing. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Parties shall be promptly notified of each proposed or final decision or order by delivery of a copy of the decision or order by certified mail, return receipt requested. In the case of a proposed decision, the department shall notify the parties of the right to appeal the decision to the department director.

**162.12(5) Appeal to the department director.**

a. Either party may request that the department director review the proposed decision. The request shall be in writing and delivered by certified mail, return receipt requested, within 20 days of receipt of the proposed decision.

b. The parties shall have an opportunity to submit briefs to the department director. The department director shall review the record and any briefs. No new evidence shall be admitted unless requested and allowed by the department director.

c. The department director shall issue a decision in writing within 90 days after receiving the request to review the proposed decision.

**641—162.13(135) Rehearing application.** Within 20 days after the department director issues a final decision in a contested case, any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, and shall mail a copy of the application by certified mail, return receipt requested, to all parties of record. The application for rehearing is deemed to have been denied unless the department director grants the application within 20 days after its filing.

**641—162.14(135) Judicial review.** A licensee that is aggrieved or adversely affected by the department director's final decision and that has exhausted all adequate administrative remedies may seek judicial review of the department director's decision pursuant to and in accordance with Iowa Code section 17A.19.

**641—162.15(135) Reissuance or reinstatement.** After suspension, revocation or refusal to renew a license, the department shall not reissue or reinstate the license to the affected licensee within one year of the effective date of the suspension, revocation or expiration upon refusal to renew, unless by order of the department. After that time, proof of compliance with licensure standards must be presented to the department prior to reinstatement or reissuance of a license.

**641—162.16(135) Complaints and investigations.**

**162.16(1) Complaints.** Any person may file a complaint with the department against any problem gambling treatment program licensed pursuant to this chapter. The person filing the complaint shall make the complaint in writing and shall mail or deliver the complaint to the division director at the Division of Behavioral Health and Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319. The complaint shall include

the name and address of the complainant, the name of the problem gambling treatment program, and a concise statement of the allegations against the program, including the specific alleged violations of this chapter, if known. A complaint may also be initiated by the department pursuant to evidence received by the department. Timely filing of complaints is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

**162.16(2) Evaluation and investigation.** Upon receipt of a complaint, the department shall make a preliminary review of the allegations contained in the complaint. Unless the department concludes that the complaint is intended solely to harass a problem gambling treatment program or lacks a reasonable basis, the department shall conduct an on-site investigation of the program which is the subject of the complaint as soon as practicable. The department shall consider the complaint to be confidential and shall protect the name of the complainant, unless the complainant waives the right to confidentiality.

**162.16(3) Investigative report.** Within 30 working days after completion of the investigation, the department shall prepare a written investigative report and shall submit the report to the executive director or program director of the problem gambling treatment program and the chairperson of the program governing body. This report shall include the general nature of the complaint and shall indicate if the allegations were substantiated, unsubstantiated, or undetermined; the basis for the finding; the specific statutes or rules at issue; a response from the problem gambling treatment program, if received; and a recommendation for action.

**162.16(4) Review of investigations.** The department shall review the investigative report and shall determine appropriate action.

a. Closure. If the department determines that the allegations contained in the complaint are unsubstantiated, the department shall close the case and shall promptly notify the complainant and the problem gambling treatment program by certified mail, return receipt requested.

b. Referral for further investigation. If the department determines that the case warrants further investigation, it shall refer the case to department staff members for further investigation.

c. Written plan of corrective action. If the department determines any allegations contained in the complaint are substantiated and corrective action is warranted, the department may require the problem gambling treatment program to submit and comply with a written plan of corrective action. A problem gambling treatment program shall submit a written plan of corrective action to the department within 20 working days after receiving a request for the plan. The written plan of corrective action shall include a plan for correcting violations as required by the department and a time frame within which the problem gambling treatment program shall implement the plan. The plan is subject to department approval. The requirement of a written plan of corrective action is not formal disciplinary action. Failure to submit or comply with a written plan of corrective action may result in formal disciplinary action against the problem gambling treatment program.

d. Disciplinary action. If the department determines that any allegations contained in the complaint are substantiated and disciplinary action is warranted, the department may proceed with such action in accordance with rule 162.11(135).

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**162.16(5)** Confidential information and public information. Information contained in a complaint is confidential pursuant to Iowa Code sections 22.7(18) and 22.7(35) or any other provision of state or federal law, unless the complainant waives the right to confidentiality. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 162.11(135) shall refer to problem gambling clients by number and shall not include any other client identifying information. The department shall ensure that investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 162.11(135) are available to the public as open records pursuant to Iowa Code chapter 22.

**641—162.17(135) Funding.** The issuance of a license by the department to any problem gambling treatment program shall not be construed as a commitment on the part of either the state or federal government to provide funds to the program.

**641—162.18(135) Inspection.** Each applicant or licensee agrees as a condition of licensure:

**162.18(1)** To permit properly designated representatives of the department to enter and inspect any and all premises of problem gambling treatment programs for which a license has been either applied or issued to verify information contained in the application or to ensure compliance with all laws, rules, and regulations relating thereto, during all hours of operation of the facility and at any other reasonable hour.

**162.18(2)** To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the licensee. The department shall not license a problem gambling treatment program which does not permit inspection by the department or examination of all records, including client records, personnel records, financial records, methods of administration, and any other records the department deems relevant.

**641—162.19(135) Exemptions to rule 162.20(135).**

**162.19(1)** The department shall exempt problem gambling treatment programs that hold a valid license under 641—Chapter 155 from all the standards required pursuant to rule 162.20(135), except for the standards set forth in the following subrules:

- a. 162.20(6), Personnel;
- b. 162.20(7), Child abuse, dependent adult abuse, and criminal history background checks;
- c. 162.20(8), Client case record maintenance;
- d. 162.20(9), Client screening, admission and assessment;
- e. 162.20(15), Sentinel events;
- f. 162.20(16), Quality improvement; and
- g. 162.20(20), Financial counseling.

**162.19(2)** The department shall exempt problem gambling treatment programs accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) from all the standards required pursuant to rule 162.20(135), except for the standards set forth in the following subrules:

- a. 162.20(6), Personnel;
- b. 162.20(7), Child abuse, dependent adult abuse, and criminal history background checks;
- c. 162.20(8), Client case record maintenance; and
- d. 162.20(9), Client screening, admission and assessment.

**162.19(3)** The department shall exempt problem gambling treatment programs accredited by the Council on Accreditation (COA) from all the standards required pursuant to rule 162.20(135), except for the standards set forth in the following subrules:

- a. 162.20(6), Personnel;
- b. 162.20(7), Child abuse, dependent adult abuse, and criminal history background checks; and
- c. 162.20(9), Client screening, admission and assessment.

**162.19(4)** The department shall exempt problem gambling treatment programs accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) from all the standards required pursuant to rule 162.20(135), except for the standards set forth in the following subrules:

- a. 162.20(6), Personnel;
- b. 162.20(9), Client screening, admission and assessment; and
- c. 162.20(20), Financial counseling.

**162.19(5)** The department shall combine the scores for all programming, administrative and clinical standards into one score for the licensure weighting report for those problem gambling treatment programs exempted under this chapter.

**641—162.20(135) General standards for all problem gambling treatment programs.** The following standards shall apply to all licensed problem gambling treatment programs in the state of Iowa regardless of the category of services provided by such programs. In situations in which differences between general standards and specific standards occur, both general and specific standards must be met.

**162.20(1) Governing body.** Each problem gambling treatment program shall have a formally designated governing body that is representative of the community being served, complies with Iowa Code chapter 504 and other Iowa Code chapters as appropriate, and has ultimate authority and responsibility for overall program operations.

a. The governing body shall develop and adopt written bylaws and policies that define the powers and duties of the governing body, its committees and advisory groups, and the executive director or program director. The governing body shall review and revise the bylaws and policies as necessary.

b. The bylaws shall specify, at a minimum, the following:

- (1) Type of membership;
- (2) Term of appointment;
- (3) Frequency of meetings;
- (4) Attendance requirements; and
- (5) Quorum necessary to transact business.

c. The governing body shall keep minutes of all meetings and shall make the minutes available for review by the department. Minutes shall include, but not be limited to, the following:

- (1) Date of the meeting;
- (2) Names of members attending;
- (3) Topics discussed; and
- (4) Decisions reached and actions taken.

d. The duties of the governing body shall include, but not be limited to, the following:

(1) To appoint a qualified executive director or program director who shall have the responsibility and authority for the management of the problem gambling treatment program in accordance with the governing body's established policies;

(2) To establish effective controls which shall ensure that quality services are delivered;

(3) To review and approve the program's annual budget;

(4) To ensure that the program shall maintain the fiscal management system in accordance with generally accepted accounting principles, including internal controls to reasonably protect program assets;

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(5) To ensure that the program shall have insurance coverage that provides for the protection and replacement of the physical and financial resources of the program and that provides fidelity bond or crime and dishonesty insurance coverage for all staff members, facilities, and equipment;

(6) To review the insurance coverage annually; and

(7) To approve all contracts.

e. The governing body shall develop and approve policies for the effective operation of the program.

f. The governing body is responsible for all funds, equipment, supplies and the facility or facilities in which the program operates, and for the appropriateness and adequacy of services provided by the program.

g. The governing body shall at least annually prepare a report which shall include, but not be limited to, the following information:

(1) The name, address, occupation, and place of employment of each governing body member;

(2) Any family or business relationships which a member of the governing body may have with a program staff member; and

(3) When applicable, the name and address of any owner or controlling party whether it is an individual, a partnership, a corporation body or subdivision of other bodies, such as a public agency, religious group, fraternity, or other philanthropic organization.

h. The governing body shall assume the responsibility of ensuring that malpractice and liability insurance and fidelity bond or crime and dishonesty insurance have been provided for the program.

**162.20(2)** Executive director or program director. The executive or program director shall have primary responsibility for overall problem gambling treatment program operations. The problem gambling treatment program governing body shall clearly define the duties of the executive director or program director, when applicable, in accordance with the policies established by the governing body.

**162.20(3)** Clinical oversight. The problem gambling treatment program shall have appropriate clinical oversight to ensure the quality of clinical services provided to clients. Clinical oversight shall be provided in-house or through consultation. The clinical director shall meet the criteria for staff members detailed in subrule 162.20(6), paragraph "k." Clinical oversight may include assisting the problem gambling treatment program in developing policies and procedures relating to the assessment and treatment of clients, assisting in the training of staff members and providing assistance to clinical staff members in assessment or treatment. The executive director or program director or designee is ultimately responsible to the governing body for the supervision of clinical services and the provision of services to clients.

**162.20(4)** Staff development.

a. The problem gambling treatment program governing body shall approve written policies and procedures that establish a staff development and training plan, based on an annual needs assessment. Staff development shall include orientation for staff members and opportunities for continuing job-related education.

b. The problem gambling treatment program shall institute and document in-service training programs when program operations or functions are changed. In addition, the program shall design in-service training programs to allow staff members to develop new skills so that staff members may effectively adapt to such changes.

c. The problem gambling treatment program shall make on-site staff development and activities for professional

growth and development available to all personnel. These activities shall be culturally and environmentally specific.

**162.20(5)** Procedures manual. All problem gambling treatment programs shall develop and maintain a procedures manual. The manual shall define the program's policies and procedures to reflect the program's activities. Any revision entered in the manual shall include the date and the name and title of the individual making the entries. The manual shall include the required written policies, procedures, definitions, and all other documentation required in this chapter.

**162.20(6)** Personnel. All problem gambling treatment programs shall develop written personnel policies and procedures.

a. The problem gambling treatment program shall have written policies and procedures that address the following criteria:

(1) Recruitment, selection, and credentials of staff members;

(2) Recruitment and selection of volunteers;

(3) Wage and salary administration;

(4) Promotions;

(5) Employee benefits;

(6) Working hours;

(7) Vacation and sick leave;

(8) Lines of authority;

(9) Rules of conduct;

(10) Disciplinary actions and termination of employees;

(11) Methods for handling cases of inappropriate services to clients;

(12) Work performance appraisals;

(13) Employee accidents and safety;

(14) Employee grievances; and

(15) Employee assistance for staff members.

b. The problem gambling treatment program shall ensure that written personnel policies and practices include an equal employment opportunity policy and an affirmative action plan for hiring members of protected classes.

c. The problem gambling treatment program shall have written job descriptions that reflect the actual duties of the employee.

d. The executive director or program director or designee shall review job descriptions when necessary or whenever there is a change in required qualifications or duties.

e. The problem gambling treatment program shall ensure that all positions have job descriptions included in the personnel section of the procedures manual or personnel record of the staff member.

f. The problem gambling treatment program shall have written personnel policies and practices that include a mechanism for written evaluation of employee performance on at least an annual basis. The program shall provide evidence that each evaluation is reviewed with the employee and that the employee is given the opportunity to respond to the evaluation.

g. The problem gambling treatment program shall have a personnel record on each staff member. These records shall contain, as applicable:

(1) Verification of training, experience and all professional credentials relevant to the position;

(2) Job performance evaluations;

(3) Incident reports;

(4) Disciplinary actions taken; and

(5) Documentation that the employee agrees to follow problem gambling treatment program-related confidentiality laws and rules. This documentation shall occur prior to the employee's assumption of duties.

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h. The problem gambling treatment program shall have written policies and procedures that ensure confidentiality of personnel records and that list authorized personnel who have access to various types of personnel information.

i. The problem gambling treatment program shall have written policies related to the prohibition of sexual harassment.

j. The problem gambling treatment program shall have written policies related to the implementation of the Americans with Disabilities Act.

k. Staff members who provide treatment services and the clinical director must meet at least one of the following conditions:

(1) Currently maintain active status as a nationally certified gambling counselor or an Iowa-certified gambling counselor.

(2) Have received a minimum of 30 hours of training or education related to problem gambling within the previous 24 months and are working toward certification within a maximum of 24 months as a nationally certified gambling counselor or an Iowa-certified gambling counselor.

(3) Currently maintain active status as a licensed or certified practitioner in a counseling-related field and have received a minimum of 20 hours of training or education related to problem gambling within the previous 24 months.

**162.20(7)** Child abuse, dependent adult abuse, and criminal history background checks.

a. Written policies and procedures shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures for the problem gambling treatment program. Staff members shall immediately report alleged violations to the executive director or program director or designee and appropriate department of human services personnel. The program shall have written policies and procedures for reporting alleged violations that comply with Iowa department of human services rules. The program shall hold any employee found to be in violation of Iowa Code sections 232.67 to 232.70, as substantiated by a department of human services investigation, subject to the program's policies concerning dismissal.

b. The personnel record for each employee working with clients shall contain at a minimum:

(1) Documentation of a criminal history background check with the Iowa division of criminal investigation on all new applicants for employment asking whether the applicant has been convicted of a crime.

(2) A written, signed and dated statement furnished by a new applicant for employment that discloses any substantiated reports of child abuse, neglect or sexual abuse or dependent adult abuse.

(3) For all employees working with or in contact with juveniles, documentation of a background check with the Iowa central child abuse registry on an applicant hired on probationary or temporary status, but prior to permanent employment, for any substantiated reports of child abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A.

(4) For all employees hired on or after July 1, 1994, and working with or in contact with dependent adults, documentation of a background check with the Iowa central adult abuse registry on an applicant hired on probationary or temporary status, but prior to permanent employment, for any substantiated reports of dependent adult abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A and chapter 235B.

c. A problem gambling treatment program shall not employ a person to work with juveniles who has a record of a

criminal conviction or a founded child abuse report, unless an evaluation of the crime or founded child abuse has been made by the department of human services which concludes that the crime or founded child abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse exists, the program shall offer the person with a criminal conviction or founded child abuse the opportunity to complete and submit Form 470-2310, Record Check Evaluation, to the Iowa department of human services. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation and the number of crimes or founded abuses committed by the person.

d. A problem gambling treatment program shall not employ a person to work with dependent adults who has a record of a criminal conviction or a founded dependent adult abuse report, unless an evaluation of the crime or founded dependent adult abuse has been made by the department of human services which concludes that the crime or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded dependent adult abuse exists, the program shall offer the person with a criminal conviction or founded dependent adult abuse the opportunity to complete and submit Form 470-2310, Record Check Evaluation, to the Iowa department of human services. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation and the number of crimes or founded abuses committed by the person.

e. Each problem gambling treatment staff member shall complete two hours of training relating to the identification and reporting of child abuse and dependent adult abuse within six months of initial employment and shall complete at least two hours of additional training every five years thereafter.

**162.20(8)** Client case record maintenance. The problem gambling treatment program shall have written policies and procedures governing the compilation, storage and dissemination of individual client case records.

a. These policies and procedures shall ensure that:

(1) The problem gambling treatment program exercises its responsibility for safeguarding and protecting the client case record against loss, tampering, or unauthorized disclosure of information;

(2) Content and format of client case records are uniform; and

(3) Entries in the client case record are signed and dated.

b. The problem gambling treatment program shall provide adequate physical facilities for the storage, processing, and handling of client case records. These facilities shall include locked office doors and file cabinets and secure computer storage and storage areas. In those instances where records are maintained electronically, the program shall accept a staff identification code number authorizing access in lieu of a signature.

c. The problem gambling treatment program shall maintain appropriate records readily accessible to both staff members who provide services directly to the client and other persons specifically authorized by program policy. The pro-

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

gram shall maintain records in proximity to the area in which the client normally receives services.

d. The problem gambling treatment program shall have a written policy governing the disposal and maintenance of client case records. The program shall maintain any client case record for not less than seven years from the date the record is officially closed.

e. The problem gambling treatment program governing body shall establish policies that specify the conditions under which information on applicants or clients may be released and the procedures to be followed for releasing such information, in accordance with Iowa Code chapter 228, HIPAA and other relevant provisions of federal and state law.

f. Confidentiality of client case records. The problem gambling treatment program shall protect the confidentiality of client case records maintained by a program in accordance with Iowa Code chapter 228, HIPAA and other relevant provisions of federal and state law.

**162.20(9) Client screening, admission and assessment.**

a. Client screening. A problem gambling treatment program shall consider a client who is either a problem gambler or a concerned person affected by problem gambling behavior to be eligible for outpatient services if:

(1) Screening of a client, which includes the use of any of the following tools, determines that the client has a gambling problem:

1. Diagnostic criteria for pathological gambling in the American Psychiatric Association: Diagnostic and Statistical Manual (DSM) of Mental Disorders, version IV; or

2. Any gambler who meets from two to four of the diagnostic criteria for pathological gambling in the American Psychiatric Association: Diagnostic and Statistical Manual (DSM) of Mental Disorders, version IV.

(2) A concerned person, if any one of the following applies:

1. The individual who gambles excessively, and whose behavior is affecting the concerned person, meets the criteria in subparagraph 162.20(9)"a"(1); or

2. The concerned person meets the criteria of the Gam-Anon 20 questions screening tool.

b. Client admission. The problem gambling treatment program shall determine a client is in need of services if the client meets the criteria in subparagraph 162.20(9)"a"(1) or (2), and may then admit the client to the program. The program shall collect and record prior to or at the time of admission the following intake information on standardized forms for all persons applying for services. The program shall ensure that the following information shall become part of the client case record:

(1) Identifying information, including name, address, and telephone number.

(2) Demographic information, including date of birth, sex, race or ethnicity.

(3) Identification of the referral source.

(4) Presenting problem.

(5) Gambling history, including type, amount, frequency and duration of gambling activity.

(6) A problem gambling treatment screening as described in paragraph 162.20(9)"a."

(7) A GTRS admission form if funded by the Iowa gambling treatment fund.

c. Client assessment. The problem gambling treatment program shall develop a complete assessment which is an analysis and synthesis of the intake data and which addresses the client's strengths, needs, and areas of clinical concern, including any problem gambling-specific goals and objectives

the client has identified. The assessment shall be completed within 21 days of admission and shall include the following information:

(1) Legal history describing any involvement with the criminal justice system.

(2) Medical and health history.

(3) Mental health history and current mental health status, including, at a minimum, the use of a version of the Modified-MINI screening tool identified by the department.

(4) Suicidal/homicidal assessment including past suicide attempts, method, suicide plan, family history of suicide attempts and suicidal intent.

(5) Substance abuse history and screening describing current use, past use and treatment history, including, at a minimum, the use of a version of the Texas Christian University screening tool identified by the department.

(6) Family history describing family composition and dynamics.

(7) Education status and history documenting levels of achievement.

(8) Vocational or employment status and history describing skills or trades learned, jobs held, duration of employment, and reasons for leaving.

(9) Peers and friends, indicating interpersonal relationships and interaction with persons and groups outside the home.

(10) A financial evaluation and information, including current financial status, gambling debt, any previous bankruptcy or repayment plans and insurance coverage.

(11) Any other relevant information which shall assist in formulating an initial assessment of the client.

d. Problem gambling screening, admission and assessment policies and procedures. The problem gambling treatment program shall have written policies and procedures governing uniform screening, admission and assessment, which shall define:

(1) The types of information to be gathered on all problem gambling clients during screening, admission and assessment.

(2) Procedures to be followed to accept referrals from outside agencies or organizations.

(3) The types of records to be kept on all problem gambling clients applying for services.

e. The problem gambling treatment program shall ensure that all clinical observations and recommendations are documented in the client case record. If, in the judgment of the clinical director, psychological, psychiatric or further medical examinations are indicated, then the program shall refer the client to the appropriate professional services and document the referral in the client case record.

f. When a client refuses to divulge information or to follow the recommended course of treatment, the problem gambling treatment program shall note this refusal in the client case record.

g. During the screening and admission process, the program shall document that the client has been informed of:

(1) The general nature and goals of the problem gambling treatment program.

(2) The rules governing client conduct and the infractions that may lead to discharge from the program.

(3) The hours during which services are available.

(4) Problem gambling treatment costs to be borne by the client, if any.

(5) The client's rights and responsibilities.

(6) Confidentiality laws, rules and regulations including HIPAA.

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h. The problem gambling treatment program shall clearly explain the results of the assessment to the client and to the client's family when appropriate. The problem gambling treatment program shall document this explanation in the client case record.

i. The clinical director shall review and approve all client screenings and assessments within 30 days of completion by probationary employees. The clinical director shall review and approve a minimum of 20 percent of all problem gambling client screenings and assessments within 30 days of completion by nonprobationary employees.

j. If the client is a minor, the program shall provide treatment services only with the permission of the client's parent or guardian.

**162.20(10)** Treatment plans. The problem gambling treatment program shall have a treatment plan in effect for each client receiving services. Based upon the initial assessment, the program shall develop and record an individualized written treatment plan in the client case record.

a. The problem gambling treatment program shall develop a treatment plan based upon the assessment as soon after the client's admission to the program as is clinically feasible, but not later than 30 days following admission.

b. The problem gambling treatment program shall have an individualized treatment plan for each client which, at a minimum, shall contain:

(1) Short-term and long-term goals that the client is attempting to achieve, based on the client's strengths and needs, including any problem gambling-specific goals and objectives that the client has identified.

(2) Time lines for the client to complete short-term and long-term goals and to successfully complete treatment.

(3) Type and frequency of therapeutic problem gambling treatment services which the client is receiving.

(4) Cultural and environmental criteria to meet the needs of the client.

c. The problem gambling treatment program shall develop treatment plans in partnership with the client.

d. The problem gambling treatment program shall provide the client with copies of all treatment plans upon request.

e. The problem gambling treatment program shall review the treatment plan with the client during each individual counseling session and shall document each review in the progress notes as required in subrule 162.20(11).

f. The problem gambling treatment program shall document that it has attempted to engage in joint treatment planning with other professionals who also provide services to the client.

g. If the client is a minor, the problem gambling treatment program shall develop a treatment plan in consultation with the client's parent or guardian.

**162.20(11)** Progress notes.

a. The problem gambling treatment program shall record a client's progress and current status in meeting the goals set in the treatment plan, as well as efforts by staff members to help the client achieve the stated goals in the client case record. Staff members shall record information following each individual counseling session and shall record a summary of group counseling services at least weekly for clients who receive group counseling services.

b. The problem gambling treatment program shall use a standard documentation format for progress notes.

c. The progress notes for each individual counseling session shall document the following:

(1) Content of the session.

(2) Reassessment of the client's status, including any new short-term or long-term goals which were developed in conjunction with the client.

(3) Efforts by staff members to help the client achieve the treatment plan goals.

(4) Progress in achieving short-term and long-term goals.

(5) Plan to determine future short-term and long-term goals.

d. Entries shall be filed in chronological order and shall include the date services were provided or observations made, the amount of service time, the date the entry was made, and the signature or initials and title of the staff member providing the services. Staff members shall enter all progress notes into the client case record in permanent pen or by typewriter or computer. For records maintained electronically, the program shall accept a staff identification code number authorizing access in lieu of a signature.

e. Staff members shall supplement all entries that involve subjective interpretations of a client's progress with a description of the actual behavioral observations which were the basis for the interpretation.

f. If a client is also receiving services from an outside resource, the program shall attempt to periodically provide an updated status report to the outside resource, and shall attempt to:

(1) Secure a written copy of status reports and other client records from the outside resource, and

(2) Engage in joint treatment planning with other professionals involved in the management of the client's case.

g. The problem gambling treatment program shall ensure that individual progress notes are written, typed or dictated within one working day of the session and that group progress notes are written, typed or dictated within five working days of the session.

**162.20(12)** Client case record contents. The problem gambling treatment program shall ensure that there is a case record for each client that contains, as applicable:

a. Results of all examinations, tests, and screening and admission information;

b. Reports from referring sources;

c. An assessment;

d. Treatment plans;

e. Date of report from an outside resource or documentation of verbal consultation with an outside resource including the name of the resource;

f. Documentation of multidisciplinary case conferences and consultations, including the date of the conference or consultation, recommendations made, actions taken, and individuals involved;

g. Correspondence related to the client, including all letters and dated notations of telephone conversations relevant to the client's treatment;

h. Treatment consent forms;

i. Release of information forms;

j. Progress notes;

k. Records of services provided;

l. A discharge summary of services provided, to be completed within seven days of discharge. The program shall ensure that the discharge summaries are sufficiently detailed to identify the types of services the client has received and the actions taken to address the specific problems identified. The discharge planning process shall begin at the time of client admission, shall determine a client's continued need for treatment services, and shall include development of a plan to address ongoing client posttreatment needs. Discharge planning may also include a document identified as a dis-

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

charge plan. Discharge of the client shall occur not later than 45 days after services have ceased. If the client is a minor, staff members shall develop the discharge plan in consultation with the client's parent or guardian;

- m. GTRS forms if funded by the Iowa gambling treatment fund, or other appropriate data forms;
- n. Incident reports; and
- o. Documentation of all missed appointments and failure to comply with treatment recommendations.

In describing services, staff members shall avoid general terms such as "counseling" or "activities."

**162.20(13) Medical services.**

a. The problem gambling treatment program shall have policies and procedures developed to ensure that a medical history for all clients is completed upon admission to a treatment program. The program shall have policies and procedures developed in conjunction with a physician. The program policies and procedures shall specify how program staff members review the medical history of, examine, and evaluate persons seeking services, and shall specify when staff members refer clients to medical services.

b. The program shall ensure that the medical history is performed as soon as possible.

c. A program may accept a medical history from referral sources which was conducted not more than 90 days prior to admission.

**162.20(14) Emergency medical services.** The problem gambling treatment program shall have policies and procedures to address medical emergencies.

**162.20(15) Sentinel events.**

a. The problem gambling treatment program shall have written policies and procedures to identify sentinel events that include but are not limited to:

- (1) Situations in which a client or staff member is determined to be a danger to self or others;
- (2) Any injury occurring at the facility;
- (3) Any child abuse or dependent adult abuse involving a client or involving a program staff member as the respondent;
- (4) Vehicular accidents involving a staff member on program business or involving a program-owned vehicle;
- (5) Abuse of licit substances on program property;
- (6) Use or possession of illicit substances on program property;
- (7) Any events which may be subject to litigation; and
- (8) Any other event which the program considers a sentinel event.

b. The problem gambling treatment program shall identify and respond appropriately to all sentinel events.

**162.20(16) Quality improvement.** The problem gambling treatment program shall have an ongoing quality improvement plan primarily designed to improve client services and to resolve identified problems.

a. The program shall have a written plan for quality improvement that is designed to evaluate the quality and appropriateness of client services and to resolve identified problems.

b. Staff members shall document program progress in the quality improvement plan.

c. Staff members shall document program changes in the quality improvement plan.

d. Staff members shall document how the quality of client services is improved by means of the quality improvement plan.

e. Staff members shall identify problems resolved through actions taken in compliance with the quality improvement plan.

f. The program shall demonstrate that problem gambling treatment modalities are grounded in current best practices within the problem gambling treatment field.

g. The program shall demonstrate integration of available research-based findings into its clinical practice.

h. The program shall have written policies and procedures for incorporating client satisfaction, treatment outcomes and performance measurement data into the quality improvement plan and shall demonstrate that findings from these data sources have been used to monitor and improve program performance.

**162.20(17) Facility construction and safety.** All facilities in which clients receive screenings, assessments or treatment services shall be designed, constructed, equipped, and maintained in a manner that is designed to provide for the physical safety of clients, staff members, visitors, and others.

a. If required by local jurisdiction, the program shall display a certification of occupancy.

b. During all phases of construction or alterations of facilities, the program and construction contractor shall not diminish the level of life safety in any occupied area. The program shall ensure that construction is in compliance with all applicable federal, state, and local codes.

c. New construction shall comply with Iowa Code chapter 104A and all applicable federal and local codes and provide for safe and convenient use by disabled individuals.

d. The program shall have written policies and procedures to provide a safe environment for clients, personnel, and visitors and to monitor that environment. Staff members shall document implementation of the procedures. The program's written policies and procedures shall include, but not be limited to, the following:

(1) A process for the identification, development, implementation, and review of safety policies and procedures for all facilities and services.

(2) The promotion and maintenance of an ongoing, facility-wide hazard surveillance program to detect and report all safety hazards related to clients, visitors, and personnel.

(3) The process by which staff members dispose of biohazardous waste within clinical service areas.

(4) For all facilities, the program shall:

1. Maintain all stairway, hall, and aisle floors with a substantial nonslippery material. The program shall maintain all stairways, halls, and aisles in a good state of repair, with adequate lighting. The program shall ensure that halls and aisles are free from obstructions at all times and that all stairways have handrails.

2. Ensure that radiators, registers, and steam and hot water pipes have protective covering or insulation and that electrical outlets and switches have wall plates.

3. Have written procedures for the handling and storage of hazardous materials.

4. Have policies and procedures for weapons removal.

5. Maintain swimming pools in conformance with state and local health and safety regulations. The program shall ensure that adult supervision is available at all times during which children are using the pool.

6. Have policies regarding fishing ponds, lakes, or any bodies of water located on or near the facility and accessible to the client.

**162.20(18) Facility safety.** The problem gambling treatment program shall:



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a. Ensure that the outpatient facility is safe, clean, well ventilated, properly heated, free from vermin and rodents and in good repair.

b. Ensure that the facility is appropriate for providing those services available from the program and for protecting confidentiality.

c. Ensure that furniture is in good repair.

d. Have a written plan outlining procedures to be followed in the event of fire or tornado. This plan shall be conspicuously displayed in the facility.

**162.20(19)** Therapeutic environment. The problem gambling treatment program shall establish an environment that enhances the positive self-image of clients and preserves their human dignity. The program shall:

a. Ensure that all services are accessible to people with disabilities or have written policies and procedures that describe how people with disabilities can attain access to the facility for necessary services. The program shall comply with the Americans with Disabilities Act.

b. Ensure that the waiting or reception areas are of adequate size, have appropriate furniture and are located to ensure confidentiality.

c. Ensure that staff members are available to address the needs of clients and to greet clients and visitors.

d. Prohibit smoking within each facility.

e. Ensure that no staff member or other person sells, gives, or otherwise supplies any tobacco, tobacco products, or cigarettes to any client or staff member. The program shall not allow a person under the age of 18 to smoke, use, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

f. Have written policies and procedures to:

(1) Inform problem gambling clients of their legal and human rights at the time of admission to the program;

(2) Address client communication, opinions, or grievances and have a mechanism for redress;

(3) Address prohibition of sexual harassment; and

(4) Address a client's right to privacy.

**162.20(20)** Financial counseling services.

a. The program shall offer financial counseling services to clients. Financial counseling services shall be provided in-house or through consultation.

b. If the problem gambling treatment program determines that the client has financial problems, then financial counseling services shall include assisting clients in preparing a budget and discussing financial debt options, including restitution and bankruptcy.

These rules are intended to implement Iowa Code section 135.150.

## NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2006 — February 28, 2006	6.50%
March 1, 2006 — March 31, 2006	6.50%
April 1, 2006 — April 30, 2006	6.50%
May 1, 2006 — May 31, 2006	6.75%
June 1, 2006 — June 30, 2006	7.00%
July 1, 2006 — July 31, 2006	7.00%
August 1, 2006 — August 31, 2006	7.25%
September 1, 2006 — September 30, 2006	7.00%
October 1, 2006 — October 31, 2006	7.00%
November 1, 2006 — November 30, 2006	6.75%
December 1, 2006 — December 31, 2006	6.75%
January 1, 2007 — January 31, 2007	6.50%
February 1, 2007 — February 28, 2007	6.50%

**ARC 5697B****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 1, "Organization of Division," Iowa Administrative Code.

The rules in Chapter 1 describe the bureaus of the Division and the public records functions of the Division. This amendment updates the Division's structure and implements the authority granted in 2006 Iowa Acts, Senate File 2364, to charge a fee for service of process as permitted by recent legislation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5594B**. A public hearing was held on December 26, 2006, at 1 p.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319.

No one appeared at the public hearing, and no comments were received. However, one technical correction has been made in 1.1(3)"b." The name of the federal agency has been changed from "a federal health care administration" to "Centers for Medicare and Medicaid Services." No other changes were made to the Notice.

This amendment will become effective March 7, 2007.

This amendment is intended to implement Iowa Code section 505.8 and 2006 Iowa Acts, Senate File 2364, section 18 [2007 Iowa Code section 505.29].

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 amendments [amendments to Ch 1] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5594B**, IAB 12/6/06.

[Filed 1/12/07, effective 3/7/07]

[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

**ARC 5674B****LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 10, "General Industry Safety and Health Rules," and Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The amendments adopt by reference changes to federal occupational safety and health standards concerning respiratory protection that establish definitions and requirements for assigned protection factors and maximum use concentrations. The amendments also change respirator selection requirements in several different standards and bring Iowa's hexavalent chromium standards into conformity with changes to the federal standards that resulted from settlement of a federal lawsuit.

The principal reasons for adoption of these amendments are to implement Iowa Code chapter 88, to protect the safety and health of Iowa workers, and to make Iowa's rules current and more consistent with federal regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5596B**. No public comments were received. No changes have been made from the Notice of Intended Action.

No waiver provision is contained in these rules as there are variance provisions at 875—Chapter 5.

These amendments are intended to implement Iowa Code chapter 88.

These amendments will become effective on March 7, 2007.

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 amendments [10.4, 10.20, 26.1] is being omitted. These amendments are identical to those published under Notice as **ARC 5596B**, IAB 12/6/06.

[Filed 1/10/07, effective 3/7/07]

[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

**ARC 5690B****LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 90A.7, the Labor Commissioner hereby amends Chapter 173, "Professional Boxing," and Chapter 177, "Professional Shoot Fighting," Iowa Administrative Code.

The amendments require participants in shoot fighting and professional boxing events to provide proof of negative antigen tests for the human immunodeficiency, hepatitis A, and hepatitis B viruses within six months prior to the event.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5584B**. Two associations filed comments expressing support for the proposed amendments. No other public comments were received. No changes from the Notice of Intended Action have been made.

The principal reasons for adoption of these amendments are to protect the health of the public and to implement legislative intent.

No waiver provision is contained in these rules as there are variance provisions at 875—Chapter 1.

These amendments are intended to implement Iowa Code chapter 90A.

These amendments will become effective on March 7, 2007.

The following amendments are adopted.

ITEM 1. Adopt new rule 875—173.54(90A) as follows:

**875—173.54(90A) Blood-borne disease testing.** Before a contest, each boxer shall provide to the ringside physician test results showing the boxer tested negative for the human immunodeficiency, hepatitis A, and hepatitis B viruses within the six-month period prior to the event. Only results from laboratories certified in accordance with the federal Clinical

## LABOR SERVICES DIVISION[875](cont'd)

Laboratory Improvement Act shall be accepted. The contestant shall not participate and the physician shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

1. The participant does not produce proof of testing;
2. The test results are positive;
3. The laboratory is not properly certified;
4. The test was performed more than six months prior to the event; or
5. The test results are otherwise deficient.

ITEM 2. Adopt **new** subrule 177.5(11) as follows:

**177.5(11)** Blood-borne disease testing. Before a contest, each contestant shall provide to the ringside physician test results showing the contestant tested negative for the human immunodeficiency, hepatitis A, and hepatitis B viruses within the six-month period prior to the event. Only results from laboratories certified in accordance with the federal Clinical Laboratory Improvement Act shall be accepted. The contestant shall not participate and the physician shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

- a. The participant does not produce proof of testing;
- b. The test results are positive;
- c. The laboratory is not properly certified;
- d. The test was performed more than six months prior to the event; or
- e. The test results are otherwise deficient.

[Filed 1/12/07, effective 3/7/07]

[Published 1/31/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/31/07.

**ARC 5693B****NATURAL RESOURCES  
DEPARTMENT[561]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.4, the Director of the Department of Natural Resources hereby rescinds Chapter 7, "Rules of Practice in Contested Cases," Iowa Administrative Code, and adopts a new Chapter 7 with the same title.

This rule making revises the Department's rules of practice involving contested cases to address procedural issues that have arisen in the past on a recurring basis and to clarify the practices of the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5385B**. No comments were received. Minor grammatical changes have been made to clarify the meaning of several rules and subrules. No other changes have been made from the Notice of Intended Action.

The Department is an "umbrella" agency, and these changes will be made applicable to all parts of this umbrella agency in subsequent rule-making actions by the Director for the Energy and Geological Resources Division[565], by the Environmental Protection Commission [567], by the Natural Resource Commission[571], and by the State Advisory Board for Preserves[575].

These rules are intended to implement Iowa Code sections 17A.3 and 455A.4.

These rules will become effective on March 7, 2007.

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 [Ch 7] is being omitted. With the exception of the grammatical changes noted above, these rules are identical to those published under Notice as **ARC 5385B**, IAB 9/27/06.

[Filed 1/12/07, effective 3/7/07]

[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

**ARC 5688B****PROFESSIONAL LICENSURE  
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Cosmetology Arts and Sciences Examiners hereby amends Chapter 64, "Continuing Education for Cosmetology Arts and Sciences," Iowa Administrative Code.

This rule making changes the number of continuing education hours required for license renewal.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 22, 2006, as **ARC 5546B**. A public hearing was held on December 12, 2006, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Public comments were received which indicated that the commenters were confused by the recent changes in required continuing education hours, including the timing of the changes since they occur in the middle of a biennium. Several commenters did not agree with the degree to which the hours were reduced, and one commenter indicated that it is in the best interest of the practitioners to keep the continuing education hours at 8 hours, of which 2 hours will be in the content areas of cosmetology law and rules and sanitation.

The Board also conducted an additional public comment hearing at 9 a.m. on January 8, 2007, at which time comments on other administrative rule issues were received. During that hearing, comments were received which indicated that practitioners felt that the continuing education needed to be specific to the practitioner's license. As suggested by public comments and following Board review of all comments received, the Board changed the number of required continuing education hours to 8 hours for practitioners and 16 hours for instructors and restored the language that specified the practice-specific continuing education.

The amendments were adopted by the Board of Cosmetology Arts and Sciences Examiners on January 8, 2007.

These amendments will become effective March 7, 2007.

These amendments are intended to implement Iowa Code chapters 21, 147, 157 and 272C.

The following amendments are adopted.

ITEM 1. Amend subrule 64.2(1) as follows:

**64.2(1)** The biennial continuing education compliance period shall extend for a period that begins on April 1 of one year and ends on March 31 two years later. All licenses shall be renewed on a biennial basis.

~~Prior to April 30, 2006, each~~ *Each* biennium, each person who is licensed to practice as a licensee in this state shall be

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

required to complete a minimum of 8 hours of board-approved continuing education for each license held, of which 4 hours shall be in the prescribed practice discipline. *A minimum of 2 hours of the 8 hours shall be in the content areas of Iowa cosmetology law and rules and sanitation.* Licensees who are instructors of cosmetology arts and sciences shall obtain 16 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology. *A minimum of 2 hours of the 16 hours shall be in the content areas of Iowa cosmetology law and rules and sanitation.*

~~Beginning April 30, 2006, each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 12 hours of board-approved continuing education for each license held, of which 4 hours shall be in the prescribed practice discipline. Licensees who are instructors of cosmetology arts and sciences shall obtain 20 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology.~~

a. One-half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an even-numbered year to March 31 of the next even-numbered year.

b. One-half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an odd-numbered year to March 31 of the next odd-numbered year.

c. Licensees currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. Those licensees living and practicing in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due.

ITEM 2. Amend subrule **64.3(2)**, paragraph "g," as follows:

g. A licensee who has an attestation on file with the board as required in 645—subrule 60.4(6) and who continues to utilize the procedure or device specified in the attestation shall meet the requirements of 645—Chapter 64 at the time of license renewal. A minimum of 1 hour of continuing education in the area of each procedure or device for which the licensee has received board certification shall be required beginning with the renewal cycle of April 1, 2006, to March 31, 2008. Continuing education credit in the area of the procedure or device is in addition to the ~~12 hours of~~ continuing education *hours* required for renewal of the license.

[Filed 1/11/07, effective 3/7/07]

[Published 1/31/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/31/07.

**ARC 5691B****PROFESSIONAL LICENSURE  
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry Examiners amends Chapter 180, "Licensure of Optometrists," and Chapter 181, "Continuing Education for Optometrists," Iowa Administrative Code.

The amendments amend subrule 180.5(5) to correct a typographical error, amend paragraphs 181.2(1)"b" and 181.3(2)"b" to make them consistent with other board rules, and amend paragraph 181.3(2)"c" to lengthen the implementation time set forth in the paragraph to allow sufficient preparation time for providers of continuing education and to correct a category reference.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 8, 2006, as **ARC 5517B**. A public hearing was held on November 28, 2006, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. One public comment was received from the Iowa Optometric Association requesting that the mandated date for implementation in subrule 181.3(2), paragraph "c," be extended from 2008 to 2010. The Board discussed the issue and decided to keep the 2008 date but phase in implementation with voluntary participation starting in 2008, and then incrementally increase the required number of hours through 2012. This phase-in process will be described in a later administrative rule filing.

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

These amendments will become effective March 7, 2007.

These amendments are intended to implement Iowa Code chapters 21, 147, 154 and 272C.

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 amendments [180.5(5), 181.2(1)"b," 181.3(2)"b" and "c"] is being omitted. These amendments are identical to those published under Notice as **ARC 5517B**, IAB 11/8/06.

[Filed 1/12/07, effective 3/7/07]

[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

**ARC 5676B****PUBLIC HEALTH  
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 1, "Notification and Surveillance of Reportable Communicable and Infectious Diseases, Poisonings and Conditions," Iowa Administrative Code.

Item 1 provides for the issuance of investigatory subpoenas to assist in conducting a disease investigation. Item 2 corrects a typographical error and makes paragraph 1.12(4)"f" consistent with paragraph 1.9(3)"f."

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 22, 2006, as **ARC 5555B**. No comments were received. The adopted amendments are identical to those published under Notice.

These amendments were adopted by the State Board of Health on January 10, 2007.

These amendments will become effective on March 7, 2007.

These amendments are intended to implement Iowa Code section 139A.3 as amended by 2006 Iowa Acts, chapter 1079.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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 amendments [1.4(5), 1.12(4)“f”] is being omitted. These amendments are identical to those published under Notice as **ARC 5555B**, IAB 11/22/06.

[Filed 1/10/07, effective 3/7/07]  
[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

## ARC 5675B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 135M.4, the Department of Public Health hereby adopts new Chapter 109, “Prescription Drug Donation Repository Program,” Iowa Administrative Code.

The purpose of Chapter 109 is to establish the requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies and the eligibility criteria for individuals to receive donated prescription drugs and supplies.

Notice of Intended Action was published in the November 22, 2006, Iowa Administrative Bulletin as **ARC 5563B**. Comments were received from the Iowa Prescription Drug Corporation (IPDC) and the Iowa Pharmacy Association. The IPDC has been awarded the contract by the Department to administer the prescription drug donation repository program. Several of its comments have resulted in changes to the noticed rules, which are described in the following paragraph. The Iowa Pharmacy Association urged the Department to withdraw the rules until an in-depth feasibility study could be completed. The Department chose to proceed with the rules at this time because the IPDC's contractual duties include a review of similar programs in other states and a pilot project in Iowa.

Most of the changes made to the noticed rules involve the addition of a centralized repository. The centralized repository would be licensed as a distributor and would accept donated drugs, inspect them, and then ship the drugs to a local repository to be dispensed in compliance with this program. This would not preclude local repositories from accepting, inspecting and dispensing donated drugs. Other changes involve maintaining an inventory of all donated drugs and supplies and other data collection requirements.

These rules were adopted by the State Board of Health on January 10, 2007.

These rules will become effective on March 7, 2007.

These rules are intended to implement Iowa Code chapter 135M.

The following **new** chapter is adopted.

#### CHAPTER 109 PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM

**641—109.1(135M) Definitions.** For purposes of this chapter, the following definitions apply:

“Centralized repository” means a distributor approved by the contractor and licensed pursuant to 657 IAC Chapter 17 that accepts donated drugs, conducts a safety inspection of the drugs, and ships the donated drugs to a local repository to be dispensed in compliance with this chapter and federal and state laws, rules and regulations.

“Contractor” means the third party approved by the department to implement and administer the prescription drug donation repository program.

“Controlled substance” means the same as defined in Iowa Code section 124.101.

“Department” means the Iowa department of public health.

“Indigent” means a person with an income that is below 200 percent of the federal poverty level (FPL) as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.

“Local repository” means a pharmacy or medical facility that elects to accept and dispense donated drugs and that meets the eligibility requirements of rule 641—109.3(135M).

“Medical facility” means any of the following:

1. A physician's office.
2. A hospital.
3. A health clinic.
4. A nonprofit health clinic, including a federally qualified health center as defined in 42 U.S.C. § 1396d(1)(2)(B); a rural health clinic as defined in 42 U.S.C. § 1396d(1)(1); and a nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured.
5. A free clinic as defined in Iowa Code section 135.24.
6. A charitable organization as defined in Iowa Code section 135.24.
7. A nursing facility as defined in Iowa Code section 135C.1.

“NDC #” means the unique national drug code number that identifies a specific approved drug.

“Nurse practitioner” means an advanced registered nurse practitioner as defined in 655 IAC Chapter 7.

“Pharmacist” means a pharmacist as defined in Iowa Code section 155A.3.

“Pharmacy” means a pharmacy as defined in Iowa Code section 155A.3.

“Physician” means an individual licensed under Iowa Code chapter 148, 150, or 150A.

“Prescription drug” means the same as defined in Iowa Code section 155A.3 and includes cancer drugs and anti-rejection drugs, but does not include controlled substances.

“Supplies” means the supplies necessary to administer the prescription drugs donated.

“USP” means United States Pharmacopoeia.

**641—109.2(135M) Purpose.** The overall purpose of this chapter is to establish administrative rules in accordance with Iowa Code chapter 135M relative to the following:

1. Requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies.
2. Eligibility criteria for individuals to receive donated prescription drugs and supplies.

**641—109.3(135M) Eligibility criteria for program participation by medical facilities and pharmacies.**

**109.3(1)** To be eligible for participation in the prescription drug donation repository program, a medical facility or pharmacy shall be in compliance with all applicable federal and state laws, including laws applicable to the storage and

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distribution of drugs and the appropriate licensure standards, and shall hold active, nonrestricted, state-issued licenses or registrations in good standing.

**109.3(2)** Participation in the prescription drug donation repository program is voluntary.

**109.3(3)** A pharmacy or medical facility may elect to participate in the prescription drug donation repository program by providing, on a form prescribed by the department and available on the program's Web page, written notification to the centralized repository of all of the following:

a. The name, street address, and telephone number of the pharmacy or medical facility, and any state-issued license or registration number issued to the pharmacy or medical facility, including the name of the issuing agency.

b. The name and telephone number of the responsible pharmacist, physician or nurse practitioner who is employed by or under contract with the pharmacy or medical facility.

c. A statement, signed and dated by the responsible pharmacist, physician or nurse practitioner, indicating that the pharmacy or medical facility meets the eligibility requirements under this rule and shall comply with the requirements of this chapter.

**109.3(4)** Withdrawal from participation. A pharmacy or medical facility may withdraw from participation in the prescription drug donation repository program at any time by providing written notice to the centralized repository on a form prescribed by the department and available on the program's Web page.

**641—109.4(135M) Standards and procedures for accepting donated prescription drugs and supplies.**

**109.4(1)** Any individual who is 18 years of age or older may donate legally obtained prescription drugs or supplies to the centralized repository or a local repository if the drugs or supplies meet the requirements of this rule, as determined by a pharmacist who is employed by or under contract with a drug repository.

**109.4(2)** No drugs that require storage temperatures other than normal room temperature as specified by the manufacturer or United States Pharmacopoeia shall be donated or accepted as part of the prescription drug donation repository program. Drugs that require storage temperatures other than normal room temperature as specified by the manufacturer or USP shall not be donated or accepted because of the increased potential for these drugs to become adulterated. Excluded from this restriction are drugs donated directly from a drug manufacturer.

**109.4(3)** Controlled substances shall not be donated or accepted. Pursuant to federal and state laws, a controlled substance cannot be returned or reused once the drug has been dispensed to a patient.

**109.4(4)** The centralized repository or a local repository may accept a prescription drug only if all of the following requirements are met:

a. The drug is in its original sealed and tamper-evident packaging. However, a drug in a single-unit dose or blister pack with the outside packaging opened may be accepted if the single-unit-dose packaging is undisturbed;

b. The drug has been stored according to manufacturer or USP storage requirements;

c. The packaging contains the lot number and expiration date of the drug. If the lot number is not retrievable, all specified medications will be destroyed in the event of a recall, pursuant to Iowa board of pharmacy rules;

d. The drug has an expiration date that is more than six months after the date that the drug was donated;

e. The drug does not have any physical signs of tampering or adulteration, and there is no reason to believe that the drug is adulterated;

f. The packaging does not have any physical signs of tampering, misbranding, deterioration, compromised integrity or adulteration; and

g. All drugs shall be inventoried at the centralized repository or a local repository. The inventory shall include the name of the drug, strength of the drug, quantity of the drug, and the date of donation if the drug has been continually under the control of a health care professional. If the drug has not been continually under the control of a health care professional, the repository shall collect a donation form provided by the prescription drug donation repository program that is signed by the person making the donation or that person's authorized representative.

**109.4(5)** A repository may accept supplies necessary to administer the prescription drugs donated only if all of the following requirements are met:

a. The supplies are in their original, unopened, sealed packaging;

b. The supplies are not adulterated or misbranded; and

c. All supplies shall be inventoried at the centralized repository or a local repository. The inventory shall include a description of the supplies and the date donated. Such inventory shall be recorded on a form provided by the prescription drug donation repository program.

**109.4(6)** Drugs and supplies may be donated on the premises of a participating centralized repository or a local repository to a person designated by the repository. A drop box may not be used to deliver or accept donations.

**641—109.5(135M) Standards and procedures for inspecting and storing donated prescription drugs and supplies.**

**109.5(1)** A licensed pharmacist employed by or under contract with the centralized repository or a local repository shall inspect donated prescription drugs and supplies to determine, to the extent reasonably possible in the judgment of the pharmacist, that the drugs and supplies are not adulterated or misbranded, are safe and suitable for dispensing, and are not ineligible drugs or supplies. The pharmacist who inspects the drugs shall sign an inspection record stating the above and attach it to the copy of the inventory or donor record provided with the drugs. If a local repository receives drugs and supplies from the centralized repository, the local repository does not need to reinspect the drugs and supplies.

**109.5(2)** The centralized repository and local repositories shall store donated drugs and supplies in a secure storage area under environmental conditions appropriate for the drugs or supplies being stored. Donated drugs and supplies may not be stored with nondonated inventory. When donated drugs are not inspected immediately upon receipt, a repository shall quarantine the donated drugs separately from all dispensing stock until the donated drugs have been inspected and approved for dispensing under the program.

**109.5(3)** Repositories shall destroy donated noncontrolled substances that are not suitable for dispensing and make a record of such destruction according to board of pharmacy rule 657—8.8(124,155A). The destruction record shall be made in the same manner as prescribed for the record of return or destruction of a controlled substance in subrule 109.5(4).

**109.5(4)** Controlled substances shall not be accepted for donation.

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a. Controlled substances submitted for donation shall be documented and returned immediately to the donor or the donor's representative that provided the drugs.

b. In the event controlled substances enter the centralized repository or a local repository and it is not possible or practicable to return the controlled substances to the donor or the donor's representative due to inability to identify the donor or the donor's representative or due to refusal by the donor or the donor's representative to receive them, abandoned controlled substances shall be documented and destroyed beyond reclamation pursuant to rules of the board of pharmacy examiners. Such destruction shall be performed by a pharmacist or other person that has authority to dispense controlled substances and shall be witnessed by another responsible adult employee of the repository.

**109.5(5)** If a repository receives a recall notification, the repository shall perform a uniform destruction of all of the recalled prescription drugs in the repository and complete the destruction information form for all donated drugs destroyed. If a recalled drug has been dispensed, the repository shall immediately notify the recipient of the recalled drug pursuant to established drug recall procedures.

**641—109.6(135M) Standards and procedures for dispensing donated prescription drugs and supplies.**

**109.6(1)** Donated drugs and supplies may be dispensed only if the drugs or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a licensed pharmacist, physician or nurse practitioner.

**109.6(2)** A repository shall prioritize dispensing to an individual requesting drugs through the program as follows:

- a. First, to an indigent individual;
- b. Second, to an individual who has no active third-party prescription drug reimbursement coverage for the drug prescribed; and
- c. Third, to any other individual if an indigent or uninsured individual is unavailable.

**109.6(3)** A repository shall dispense donated prescription drugs in compliance with applicable federal and state laws and regulations for dispensing prescription drugs, including all requirements relating to packaging, labeling, record keeping, drug utilization review, and patient counseling.

**109.6(4)** The centralized repository and a local repository shall remove the original donor's identification and the name of the dispensing pharmacy from the package prior to dispensing the drugs or supplies.

**109.6(5)** The centralized repository and a local repository shall be responsible for drug recalls and shall have an established mechanism to notify recipients in the event of a drug recall.

**109.6(6)** Prescription drugs or supplies donated under this program shall not be resold.

**109.6(7)** The participating centralized repository and local repositories may distribute drugs and supplies donated under this program to other participating repositories for use pursuant to the program. The repository distributing the drugs or supplies shall complete a transfer form.

**641—109.7(135M) Eligibility criteria for individuals to receive donated prescription drugs and supplies.**

**109.7(1)** An individual who requests drugs from the prescription drug donation repository program shall certify to the repository that the individual is a resident of Iowa and meets one or both of the following criteria.

- a. Is indigent;

b. Has no active third-party prescription drug reimbursement coverage for the drug prescribed.

**109.7(2)** The repository shall collect a signed intake form provided by the department or its contractor from each individual recipient.

a. The intake form shall attest that:

- (1) The individual is a resident of the state of Iowa;
- (2) The individual's income does not exceed 200 percent of the FPL;
- (3) The individual is uninsured and has no prescription coverage or is underinsured and has no prescription coverage;
- (4) The individual acknowledges that the drugs may have been donated; and
- (5) The individual consents to a waiver of the requirement for child resistant packaging of the Poison Prevention Packaging Act.

b. The intake form will include a receipt to be given to the recipient for continued use for one year.

**109.7(3)** The receipt is valid for one year or until the new federal poverty guidelines have been published for all prescriptions and supplies.

**109.7(4)** A copy of the intake form is to be sent via regular mail, E-mail or facsimile to the centralized repository for data collection.

**641—109.8(135M) Forms and record keeping.**

**109.8(1)** The following forms developed for the administration of this program shall be utilized by participants of the program and are available on the program's Web page on the department's Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us).

- a. Prescription drug donation repository program notice of participation or withdrawal.
- b. Prescription drug donation repository program donation, transfer, inventory or destruction record.
- c. Prescription drug donation repository program recipient intake form and identification card.
- d. A record of medications dispensed.

**109.8(2)** Record-keeping requirements.

a. All records required to be maintained as a part of the prescription drug donation repository program shall be maintained for a minimum of five years by participating pharmacies and medical facilities.

b. Records required as part of this program shall be maintained pursuant to all current applicable practice acts.

c. Data collected by the prescription drug donation repository program from all participating repositories shall be submitted quarterly or upon request to the centralized repository. The data will consist of the information collected in accordance with 641—109.8(135M), Forms and record keeping.

d. The centralized repository and the contractor shall submit reports to the department as required by the contract or upon request of the department.

**641—109.9(135M) Handling fee.** A repository may charge the recipient of a donated drug a handling fee, not to exceed a maximum of 200 percent of the Medicaid professional dispensing fee as established by rule of the department of human services, to cover stocking and dispensing costs. A prescription drug dispensed through the prescription drug donation repository program shall not be eligible for reimbursement under the medical assistance program.

**641—109.10(135M) List of drugs and supplies program will accept.** All prescription drugs, excluding controlled substances, that have been approved for medical use in the United States, that are listed in the USP or National Formulary (USP/

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NF), and that meet the criteria for donation established by these rules may be accepted for donation under the prescription drug donation repository program.

**641—109.11(135M) Exemption from disciplinary action, civil liability and criminal prosecution.**

**109.11(1)** A drug manufacturer acting reasonably and in good faith is not subject to criminal prosecution or civil liability for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the drug manufacturer that is donated under this chapter, including liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

**109.11(2)** Except as provided in subrule 109.11(3), a person other than a drug manufacturer subject to subrule 109.11(1), acting reasonably and in good faith, is immune from civil liability and criminal prosecution for injury to or the death of an individual to whom a donated prescription drug is dispensed under this chapter and shall be exempt from disciplinary action related to the person's acts or omissions related to the donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter.

**109.11(3)** The immunity and exemption provided in subrule 109.11(2) does not extend to any of the following:

a. The donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter by a person if the person's acts or omissions are not performed reasonably and in good faith.

b. Acts or omissions outside the scope of the program.

These rules are intended to implement Iowa Code chapter 135M.

[Filed 1/10/07, effective 3/7/07]

[Published 1/31/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/31/07.

**ARC 5677B**

**PUBLIC HEALTH  
DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby adopts new Chapter 113, "Public Health Response Teams," Iowa Administrative Code.

This new chapter provides rules for the development and sponsorship of Disaster Medical Assistance Teams and Environmental Health Response Teams. These rules provide teams and team members with general requirements for registration, approval or denial of membership, licensure and educational requirements, team composition, and legal protections.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 22, 2006, as **ARC 5565B**. No comments were received, and the adopted rules are identical to those published under Notice.

These rules were adopted by the State Board of Health on January 10, 2007.

These rules will become effective on March 7, 2007.

These rules are intended to implement Iowa Code section 135.143.

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 [Ch 113] is being omitted. These rules are identical to those published under Notice as **ARC 5565B**, IAB 11/22/06.

[Filed 1/10/07, effective 3/7/07]

[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

**ARC 5678B**

**PUBLIC HEALTH  
DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 691.6(6), the Department of Public Health hereby amends Chapter 126, "State Medical Examiner," and Chapter 127, "County Medical Examiners," Iowa Administrative Code.

Item 1 of the amendments states the fee assessed for medical examiner facility expenses and services related to tissue recovery, implementing Iowa Code section 691.6(9). Item 2 amends the definition of fetal death in numbered paragraph "6" of rule 127.1(144,331,691) to be consistent with the definition in Iowa Code section 144.29. Item 3 requires the completion of a form designated by the Office of the State Medical Examiner for cases where jurisdiction is declined or terminated to ensure that all cases of death being reported to county medical examiners are documented, filed, and reported consistently. Item 4 addresses procedures for the disposal of tissues, organs and bodily fluids, implementing Iowa Code section 691.6(8).

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 22, 2006, as **ARC 5566B**. Two public comments were received and were favorable. Two changes to the noticed rules have been made in 127.3(7). The first change pertains to the retention of tissues, organs and bodily fluids and references the time periods established by the National Association of Medical Examiners as the minimum retention time. The second change was suggested by one of the public commenters and pertains to the disposal of tissues, organs and bodily fluids and states that the disposal shall take place without specific consent or notification of the legal next of kin. The Office of the State Medical Examiner agreed that this change would help strengthen the purpose of the rule.

These amendments were adopted by the State Board of Health on January 10, 2007.

These amendments are intended to implement Iowa Code sections 691.6(8) and 691.6(9).

These amendments will become effective March 7, 2007.

The following amendments are adopted.

ITEM 1. Amend 641—Chapter 126 by adding **new** rule 641—126.4(691) as follows:

**641—126.4(691) Fees for tissue recovery.** When the tissue recovery room located within the office of the state medical examiner is utilized by an authorized tissue recovery agency,



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

a fee of \$400 per case shall be assessed. The tissue recovery agency is responsible for this fee, payable to the office of the state medical examiner.

ITEM 2. Amend rule **641—127.1(144,331,691)**, definition of “death affecting the public interest,” numbered paragraph “6,” as follows:

6. Death of a person when unattended by a physician during the period of 36 hours immediately preceding death.

- This term includes the following situations:

— Persons found dead without obvious or probable cause.

— Death when the person was unattended by a physician during a terminal illness.

— Fetal death unattended by a physician. A fetal death is a fetus born dead ~~within its twentieth week of gestation~~ *after a gestation period of 20 completed weeks or greater* or a fetus which weighs 350 grams or more (Iowa Code section 144.29).

- This term does not include a prediagnosed terminal or bedfast case in which a physician has been in attendance within 30 days preceding the death.

- This term does not include a terminally ill patient who was admitted to and received services from a hospice program as defined in Iowa Code section 135J.1, if a physician or registered nurse employed by the program was in attendance within 30 days preceding the death.

ITEM 3. Amend subrule 127.2(3) as follows:

**127.2(3) Report—Form ME-1 Reports required.**

a. *Form ME-1.*

(1) Preparation and filing. A county medical examiner shall prepare a written report of the examiner’s findings on the Preliminary Report of Investigation by Medical Examiner, Form ME-1. A county medical examiner shall file the original Form ME-1 with the state medical examiner’s office within 14 days of the date of death and shall file a copy of the Form ME-1 with the county attorney within 14 days of the date of death and shall retain a copy for the medical examiner’s records.

b. (2) Content. Form ME-1 shall be completed as fully as possible in light of all available information and may be signed by either a county medical examiner or a county medical examiner investigator acting under the supervision of a county medical examiner. If the cause or manner of death, identity of the decedent, or other information is unknown or pending at the time of filing, “unknown” or “pending” may be written in the appropriate area of the form. If additional information becomes available, this information shall be forwarded to the state medical examiner in written form at such time as it becomes available to be added as a supplement to the file.

b. *Jurisdiction declined or terminated. A form designated by the office of the state medical examiner shall be completed and filed in accordance with subparagraphs (1) and (2) of paragraph “a” above in cases reported to the county medical examiner where jurisdiction is terminated or declined.*

ITEM 4. Amend rule 641—127.3(691) by adding new subrule 127.3(7) as follows:

**127.3(7)** Retention and disposal of tissues, organs, and bodily fluids. The office of the state medical examiner shall retain tissues, organs, and bodily fluids as necessary to determine the cause and manner of death or as deemed advisable by the state medical examiner for medical or public health investigation, teaching, or research. Tissues, organs, and bodily fluids shall be retained at a minimum for the time periods established by the National Association of Medical Examiners and may be retained for a longer time period at the discretion of the state medical examiner. Tissues, organs, and bodily fluids retained under this subrule shall be disposed of without the specific consent or notification of the legal next of kin and in accordance with applicable federal and state regulations including but not limited to OSHA-recommended biohazard and blood-borne pathogen standards. The anatomical material shall be removed from the laboratory premises through use of a contracted, licensed, and bonded medical waste removal service to a medical waste processing center for final disposition.

[Filed 1/10/07, effective 3/7/07]

[Published 1/31/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/31/07.

**ARC 5679B**

**PUBLIC HEALTH  
DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 131, “Emergency Medical Services Provider Education/Training/Certification,” Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training and certification of emergency medical providers and establish a standard of conduct for training programs, students and providers. This amendment changes testing fees of emergency medical care candidates for certification. The candidates will now pay a one-time fee of \$30 to the Department instead of a \$20 fee for each examination attempt. The change will decrease delay in testing for candidates who need to retest.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5574B**. No public comment was received. In addition, this amendment was simultaneously Adopted and Filed Emergency as **ARC 5573B**. This amendment is identical to the amendment published under Notice of Intended Action and Adopted and Filed Emergency.

The State Board of Health adopted this amendment on January 10, 2007.

This amendment shall become effective on March 7, 2007, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

This amendment is intended to implement Iowa Code chapter 147A.

The following amendment is adopted.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Amend subrule **131.4(1)**, paragraph “**k**,” as follows:

k. The fee for processing each ~~FR, EMT-B, EMT-I, EMT-P and paramedic specialist written examination certification as an emergency medical care provider~~ is \$20 \$30, payable to the Iowa Department of Public Health. *This non-refundable fee shall be paid prior to a candidate's attempting the written portion of the certification examination.*

[Filed 1/10/07, effective 3/7/07]  
[Published 1/31/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/31/07.

## ARC 5680B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 141, “Love Our Kids Grant,” Iowa Administrative Code.

The rules in Chapter 141 describe the process for providing grant funding to statewide, regional and local agencies and service programs that have as their responsibility the development, promotion and implementation of injury prevention and education initiatives for children in Iowa. The purpose of these amendments is to combine two separate funding categories into one category, thereby allowing easier access to funding, providing more geographically balanced distribution of funds, and enabling rural communities to provide injury prevention projects.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5576B**. One public comment was received in support of the changes. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 5575B**. These amendments are identical to the amendments published under Notice of Intended Action and Adopted and Filed Emergency.

The State Board of Health adopted these amendments on January 10, 2007.

These amendments shall become effective on March 7, 2007, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code section 321.34.

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 amendments [141.1 to 141.4, 141.5(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 5576B** and Adopted and Filed Emergency as **ARC 5575B**, IAB 12/6/06.

[Filed 1/10/07, effective 3/7/07]  
[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

## ARC 5681B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 150, “Iowa Regionalized System of Perinatal Health Care,” Iowa Administrative Code.

These amendments add a new level of designation for neonatal intensive care units to better identify the capabilities of Level II regional centers that have neonatologists on staff. It is anticipated that four hospitals will apply for a level designation change. These amendments also update the name of a Division within the Department and delete the reference to the Certificate of Need process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 22, 2006, as **ARC 5567B**. One comment was received suggesting clarification that the physician subspecialty certification is by an American board and not a board from another country. Physician experts do not feel this is necessary as it is clarified by individual hospital policy. The adopted amendments are identical to those published under Notice.

These amendments were adopted by the State Board of Health on January 10, 2007.

These amendments will become effective on March 7, 2007.

These amendments are intended to implement Iowa Code chapter 135 and 1998 Iowa Acts, chapter 1221.

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 amendments [150.1, 150.2, 150.4, 150.9 to 150.13] is being omitted. These amendments are identical to those published under Notice as **ARC 5567B**, IAB 11/22/06.

[Filed 1/10/07, effective 3/7/07]  
[Published 1/31/07]

[For replacement pages for IAC, see IAC Supplement 1/31/07.]

## ARC 5687B

### REVENUE DEPARTMENT[701]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 40, “Determination of Net Income,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” and Chapter 53, “Determination of Net Income,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX, No. 12, p. 808, on December 6, 2006, as **ARC 5593B**.

Item 1 amends rule 701—40.1(422) to reference new rule 701—40.69(422).

Item 2 amends subrule 40.38(7) to provide that the federal holding period provisions in Section 1223 of the Internal Revenue Code will be used in determining the ten-year holding period for the Iowa capital gain exclusion for Iowa indi-

## REVENUE DEPARTMENT[701](cont'd)

vidual income tax. To illustrate the changes to this subrule, examples are included.

Item 3 amends the implementation clause for rule 701—40.38(422).

Item 4 adopts new rule 701—40.69(422) to provide for an exclusion for individual income tax for capital or ordinary gain income from an involuntary conversion relating to eminent domain. To illustrate this new rule, an example is included.

Item 5 amends subrule 52.1(2) to provide for an exemption for Iowa corporation income tax if the only activity conducted by a foreign corporation in Iowa is using a distribution facility in Iowa and if certain other conditions are met. To illustrate the changes to this subrule, examples are included.

Item 6 amends the implementation clause for rule 701—52.1(422).

Item 7 amends rule 701—53.1(422) to reference new rule 701—53.24(422).

Item 8 adopts new rule 701—53.24(422) to provide for an exclusion for corporation income tax for ordinary or capital gain income from an involuntary conversion relating to eminent domain. This is similar to the change in Item 4.

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

These amendments will become effective March 7, 2007, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 422.7 as amended by 2006 Iowa Acts, House Files 2351 and 2465, Iowa Code section 422.35 as amended by 2006 Iowa Acts, House File 2351, and Iowa Code section 422.34A as amended by 2006 Iowa Acts, House File 2782.

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 amendments [amendments to Chs 40, 52, 53] is being omitted. These amendments are identical to those published under Notice as **ARC 5593B**, IAB 12/6/06.

[Filed 1/11/07, effective 3/7/07]  
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**ARC 5686B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX, No. 12, p. 811, on December 6, 2006, as **ARC 5595B**.

Item 1 amends rule 701—42.23(422) to update the listing regarding the sequence of tax credits to be deducted for individual income tax.

Item 2 amends rule 701—42.25(422,476B) to update a cross reference to another rule.

Item 3 amends subrule 42.25(1) to provide for changes in the application and review process for the wind energy production tax credit for individual income tax.

Item 4 amends subrule 42.25(2) to provide for changes in how the wind energy production tax credit for individual income tax may be allocated for partnerships, limited liability companies, S corporations, and estates or trusts in situations where federal renewable electricity production tax credits are utilized.

Item 5 amends the implementation clause for rule 701—42.25(422,476B).

Item 6 amends rule 701—42.26(422,476C) to update a cross reference to another rule.

Item 7 amends subrule 42.26(1) to provide for changes in the application and review process for the renewable energy tax credit for individual income tax.

Item 8 amends subrule 42.26(2) to provide for changes in how the renewable energy tax credit for individual income tax may be allocated for partnerships, limited liability companies, S corporations, and estates or trusts in situations where federal renewable electricity production tax credits are utilized.

Item 9 amends the implementation clause for rule 701—42.26(422,476C).

Item 10 adopts new rule 701—42.34(175,422) to provide for the agricultural assets transfer tax credit for individual income tax.

Item 11 amends rule 701—52.12(422) to update the listing regarding the sequence of tax credits to be deducted for corporation income tax.

Item 12 amends rule 701—52.26(422,476B) to update a cross reference to another rule.

Item 13 amends subrule 52.26(1) to provide for changes in the application and review process for the wind energy production tax credit for corporation income tax. This is similar to the change in Item 3.

Item 14 amends subrule 52.26(2) to provide for changes in how the wind energy production tax credit for corporation income tax may be allocated for partnerships, limited liability companies, S corporations, and estates or trusts in situations where federal renewable electricity production tax credits are utilized. This is similar to the change in Item 4.

Item 15 amends the implementation clause for rule 701—52.26(422,476B).

Item 16 amends rule 701—52.27(422,476C) to update a cross reference to another rule.

Item 17 amends subrule 52.27(1) to provide for changes in the application and review process for the renewable energy tax credit for corporation income tax. This is similar to the change in Item 7.

Item 18 amends subrule 52.27(2) to provide for changes in how the renewable energy tax credit for corporation income tax may be allocated for partnerships, limited liability companies, S corporations, and estates or trusts in situations where federal renewable electricity production tax credits are utilized. This is similar to the change in Item 8.

Item 19 amends the implementation clause for rule 701—52.27(422,476C).

Item 20 adopts new rule 701—52.33(175,422) to provide for the agricultural assets transfer tax credit for corporation income tax. This is similar to the change in Item 10.

Item 21 amends rule 701—58.15(422,476B) to update cross references to rules.

Item 22 amends rule 701—58.16(422,476C) to update cross references to rules.

REVENUE DEPARTMENT[701](cont'd)

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

These amendments will become effective March 7, 2007, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2006 Iowa Acts, Senate File 2268, sections 2 and 3; Iowa Code section 422.33 as amended by 2006 Iowa Acts, Senate File 2268; and Iowa Code Supplement chapters 476B and 476C as amended by 2006 Iowa Acts, Senate Files 2273 and 2399.

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 amendments [amendments to Chs 42, 52, 58] is being omitted. These amendments are identical to those published under Notice as **ARC 5595B**, IAB 12/6/06.

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[For replacement pages for IAC, see IAC Supplement 1/31/07.]

## ARC 5685B

### REVENUE DEPARTMENT[701]

#### Adopted and Filed

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby adopts amendments to Chapter 71, "Assessment Practices and Equalization," and Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX, No. 11, p. 684, on November 22, 2006, as **ARC 5545B**.

Item 1 amends subrule 71.1(1) to prohibit an assessor from using dual classifications for property. The land and the buildings located on that land are to be classified the same. An exception is made for buildings located on leased land, in which case different classifications are permissible. Also, the assessor is required to classify and value property according to its present use rather than its potential use.

Item 2 amends rule 701—71.3(421,428,441) to require an assessor to apply the agricultural factor uniformly to all agricultural buildings in the assessing jurisdiction. Item 2 also amends rule 701—71.3(421,428,441) to require an assessor to value the land beneath a dwelling in the same manner as the remainder of the land upon which the dwelling is located.

Item 3 amends rule 701—71.26(441) to permit an assessor to use an alternative manual to value property if it is a unique type of property not covered in the manual prepared by the Department of Revenue.

Item 4 amends rule 701—80.3(427) to require an assessor to prepare the assessment for the property and then allow the taxpayer to apply for a tax exemption for the property.

These are clarifying amendments and not changes in established policy.

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

These amendments will become effective March 7, 2007, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapters 427 and 441.

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 amendments [71.1(1), 71.3, 71.26, 80.3(10)] is being omitted. These amendments are identical to those published under Notice as **ARC 5545B**, IAB 11/22/06.

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## ARC 5673B

### VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs hereby amends Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 25, 2006, as **ARC 5481B**. No public comment was received on these amendments. These amendments are identical to the amendments published under Notice of Intended Action.

The intent of the amendments is to reflect the operational changes that the Iowa Veterans Home has undertaken since the last revision.

These amendments were adopted by the Commission of Veterans Affairs on January 3, 2007.

These amendments shall become effective March 7, 2007.

These amendments are intended to implement Iowa Code chapter 35D.

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 amendments [amendments to Ch 10] is being omitted. These amendments are identical to those published under Notice as **ARC 5481B**, IAB 10/25/06.

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