



IOWA ADMINISTRATIVE BULLETIN

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 Pages 1839 to 1886

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PREFACE

The Iowa Administrative Bulletin is published biweekly 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"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

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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	(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).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2010

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
Dec. 23 '09	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	***May 26***	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	***June 23***	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 26	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
June 23	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	***Sep. 1***	Sep. 22	Oct. 27	Jan. 24 '11
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '11
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '11
Aug. 20	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '11
Sep. 1	Sep. 22	Oct. 12	Oct. 27	***Oct. 27***	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	***Nov. 10***	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	***Nov. 24***	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	***Dec. 8***	Dec. 29	Feb. 2 '11	May 2 '11
Oct. 27	Nov. 17	Dec. 7	Dec. 22	***Dec. 22***	Jan. 12 '11	Feb. 16 '11	May 16 '11
Nov. 10	Dec. 1	Dec. 21	Jan. 5 '11	Jan. 7 '11	Jan. 26 '11	Mar. 2 '11	May 30 '11
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Dec. 22	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 5, 2010	February 24, 2010
19	Friday, February 19, 2010	March 10, 2010
20	Friday, March 5, 2010	March 24, 2010

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*****

The Administrative Rules Review Committee will hold its monthly meeting on Monday, February 8, 2010, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGING, DEPARTMENT ON[17]

Transfer and amend chs 1 to 28 Filed Emergency **ARC 8489B** 1/27/10

ATTORNEY GENERAL[61]

Forfeited property, 33.3 to 33.5 Filed **ARC 8476B** 1/13/10

CORRECTIONS DEPARTMENT[201]

Iowa sex offender registry—electronic monitoring, 38.1 to 38.3 Filed **ARC 8496B** 1/27/10

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Endow Iowa tax credits, amendments to ch 47 Filed **ARC 8474B** 1/13/10

Iowa broadband deployment governance board, chs 410 to 412 Filed **ARC 8473B** 1/13/10

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Extension of teacher intern license, 13.9(8) Notice **ARC 8436B** 1/13/10

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Cross-media electronic reporting, ch 15 Notice **ARC 8467B** 1/13/10

Iowa antidegradation policy and implementation procedures, 61.2(2), 61.3 Filed **ARC 8466B** 1/13/10

Cathode ray tube device recycling, amendments to ch 122 Notice **ARC 8468B** 1/13/10

Compensation for damages to natural resources—fish loss, 133.2, 133.6(3)“b”(3) Filed **ARC 8470B** 1/13/10

Underground storage tanks—leak detection at unstaffed facilities, 135.5(1)“e” Filed **ARC 8469B** 1/13/10

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Executive branch lobbying—reporting requirements, 8.7(2), 8.8, 8.9 Filed Emergency **ARC 8483B** 1/13/10

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]“umbrella”

HRDP grant eligibility—approval as a certified local government (CLG), 49.3 Filed **ARC 8487B** 1/27/10

HUMAN SERVICES DEPARTMENT[441]

Presumptive eligibility for children, 7.5(2)“a,” 75.1(44), 76.1 Filed **ARC 8439B** 1/13/10

State supplementary assistance—annual adjustments, 52.1 Filed Without Notice **ARC 8440B** 1/13/10

Family investment program—emergency assistance, rescind ch 58 div II Notice **ARC 8460B** 1/13/10

Medicaid express lane eligibility for children, 75.2(1), 75.11(2), 76.1(1), 76.1(8), 76.5(1)

Notice **ARC 8461B** 1/13/10

Long-term care partnership program—Medicaid eligibility, 75.5 Filed **ARC 8443B** 1/13/10

Medicaid eligibility, 75.16, 75.23 Filed **ARC 8444B** 1/13/10

Nursing facilities, amendments to ch 81 Filed Emergency After Notice **ARC 8445B** 1/13/10

Intermediate care facilities—inflation factor for reimbursement, 82.5, 82.7 to 82.12 Filed **ARC 8446B** 1/13/10

HAWK-I—health and dental plans, 86.1, 86.2, 86.6 to 86.9, 86.13 to 86.15, 86.19, 86.20

Filed **ARC 8478B** 1/13/10

HAWK-I—coverage approval and proof of citizenship, 86.2(7)“d” to “f” Notice **ARC 8479B** 1/13/10

Reimbursement rate decrease for supervised apartment living, 150.3(5)“p”

Notice **ARC 8448B**, also Filed Emergency **ARC 8447B** 1/13/10

Reimbursement rate decrease for foster group care, 152.3(1)“h”(2)

Notice **ARC 8450B**, also Filed Emergency **ARC 8449B** 1/13/10

Reduction of state payment program expenses, 153.53 to 153.58

Notice **ARC 8438B**, also Filed Emergency **ARC 8486B** 1/13/10

Reduction in reimbursement rates for foster family care and adoption and

guardianship subsidies, 156.6, 156.8(1), 156.12(1), 187.12(2), 201.6(1)“a”

Notice **ARC 8452B**, also Filed Emergency **ARC 8451B** 1/13/10

Redetermination of foster group care costs, 156.9(1)“d” Notice **ARC 8490B** 1/27/10

Child care resource and referral services, ch 159 Notice **ARC 8459B** 1/13/10

Child abuse assessment intake process, 175.24, 175.27(3) Filed **ARC 8453B** 1/13/10

INSPECTIONS AND APPEALS DEPARTMENT[481]

Public assistance debt recovery unit, rescind ch 71; adopt ch 90 Notice **ARC 8484B** 1/13/10

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Iowa FAIR Plan, 20.52, 20.54 Notice **ARC 8492B** 1/27/10**IOWA FINANCE AUTHORITY[265]**Title guaranty division, amendments to ch 9 Filed **ARC 8458B** 1/13/10

Water pollution control works and drinking water facilities financing, amendments to ch 26

Filed **ARC 8457B** 1/13/10Iowa jobs program, 32.4(4), 32.4(7) Filed **ARC 8456B** 1/13/10

Iowa jobs program—grant awards, administration of awards, 32.8, 32.9

Notice **ARC 8454B**, also Filed Emergency **ARC 8455B** 1/13/10**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

Contribution rates, tax treatment of distributions, amendments to chs 4, 7, 11, 12, 14, 16

Notice **ARC 8477B** 1/13/10**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Consultative services, ch 8 Notice **ARC 8472B** 1/13/10Inflatable amusement rides, 61.1(1), 62.2(9) Notice of Termination **ARC 8471B** 1/13/10**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Conservation education, amendments to ch 12 Notice **ARC 8463B** 1/13/10

Licensure—administration fee, special licenses, revocation or suspension due to state debt,

15.4, 15.23, 15.24, 15.51 to 15.55 Filed **ARC 8465B** 1/13/10

Special events—permitting requirements for ATVs, snowmobiles, and boating, amendments

to ch 44 Notice **ARC 8462B** 1/13/10

Restitution for pollution causing injury to wild animals—valuation of fish, 113.2, 113.3,

113.4(2)"c" Filed **ARC 8464B** 1/13/10**PUBLIC HEALTH DEPARTMENT[641]**Immunizations, 7.4(1), 7.11(2) Amended Notice **ARC 8491B** 1/27/10Continuing education for plumbing and mechanical systems professionals, ch 30 Filed **ARC 8475B** 1/13/10

Emergency medical services provider education/training/certification, 131.4, 131.7(2)

Notice **ARC 8497B** 1/27/10

Emergency medical services—service program authorization, 132.1, 132.7, 132.8, 132.10

Notice **ARC 8498B** 1/27/10

Emergency medical services—air medical service program authorization, adopt ch 144

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Sustainable design standards—data centers, 310.5(4)

Notice **ARC 8442B**, also Filed Emergency **ARC 8441B** 1/13/10**REVENUE DEPARTMENT[701]**Electronic filing of Iowa income tax returns, 8.5, 39.13 Notice **ARC 8482B** 1/13/10Individual and corporation tax, amendments to chs 38, 40, 43, 46, 50, 52 Notice **ARC 8481B** 1/13/10Data centers—business exemptions and sales and use tax refunds, 230.12, 230.13 Notice **ARC 8480B** 1/13/10**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**Involuntary discharge appeal—judicial review, 10.47(7) Notice **ARC 8488B** 1/27/10**VOTER REGISTRATION COMMISSION[821]**Voter registration—general, amendments to chs 1 to 3, 5, 6, 9 to 11 Notice of Termination **ARC 8485B** 1/13/10

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, 2011.

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator James Seymour
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Woodbine, Iowa 51579

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P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Tyler Olson
P.O. Box 2389
Cedar Rapids, Iowa 52406

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

James Larew
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319
Telephone (515)281-0208

EDUCATIONAL EXAMINERS BOARD[282]

Extension of teacher intern license, 13.9(8) IAB 1/13/10 ARC 8436B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	February 3, 2010 1 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

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Animal feeding operations, amendments to ch 65 IAB 12/16/09 ARC 8398B	NIACC Muse-Norris Conference Center 500 College Dr. Mason City, Iowa	February 1, 2010 1:30 p.m.
Cathode ray tube device recycling, amendments to ch 122 IAB 1/13/10 ARC 8468B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	February 2, 2010 2 to 3 p.m.

INSURANCE DIVISION[191]

Iowa FAIR Plan, 20.52, 20.54 IAB 1/27/10 ARC 8492B	330 Maple St. Des Moines, Iowa	February 18, 2010 2 p.m.
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Contribution rates, tax treatment of distributions, amendments to chs 4, 7, 11, 12, 14, 16 IAB 1/13/10 ARC 8477B	7401 Register Dr. Des Moines, Iowa	February 2, 2010 9 a.m.
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LABOR SERVICES DIVISION[875]

Consultative services, ch 8 IAB 1/13/10 ARC 8472B	Capitol View Room Iowa Workforce Development 1000 E. Grand Ave. Des Moines, Iowa	February 3, 2010 9 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

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	Room 276, Mason City High School 1700 4th St. S. Mason City, Iowa	February 18, 2010 9 to 10 a.m.
	Room 247, Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	February 18, 2010 9 to 10 a.m.
	Room 465, Public Library 2950 Learning Campus Dr. Bettendorf, Iowa	February 18, 2010 9 to 10 a.m.
	West High School 2001 Casselman Sioux City, Iowa	February 18, 2010 9 to 10 a.m.

PUBLIC HEALTH DEPARTMENT[641] (Cont'd)

Room 106
Council Bluffs Community School District
2501 W. Broadway
Council Bluffs, Iowa

February 18, 2010
9 to 10 a.m.

Department of Human Services
Pinecrest Office Bldg.
1407 Independence Ave.
Waterloo, Iowa

February 18, 2010
9 to 10 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Sustainable design standards—data
centers, 310.5(4)
IAB 1/13/10 **ARC 8442B**
(See also **ARC 8441B**)

First Floor Conference Room 125
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

February 9, 2010
10 a.m.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Involuntary discharge
appeal—judicial review, 10.47(7)
IAB 1/27/10 **ARC 8488B**

Ford Memorial Conference Room
Iowa Veterans Home
1301 Summit St.
Marshalltown, Iowa

February 17, 2010
1 p.m.
(If requested)

The following list will be updated as changes occur.

“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 are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 8490B

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 156, “Payments for Foster Care,” Iowa Administrative Code.

The proposed amendment:

- Deletes interim provisions used to authorize payment during the transition from rehabilitative treatment services to remedial and child welfare services in state fiscal year 2007.
- Adds provisions for periodic redetermination of the proportion of foster group care costs allocated to maintenance and to services. This allocation is important because maintenance costs are eligible for federal financial participation through the federal Foster Care and Adoption Assistance Program authorized under Title IV-E of the Social Security Act.

Cost report data for foster group care services is available to the Department because most foster group care providers also participate in the Medicaid remedial services program, which requires annual cost reports. Foster group care providers must attach an additional schedule to the cost report allocating the costs between remedial services and child welfare service and maintenance. Based on these reports, the Department will calculate an aggregate allocation percentage which will be applied to all foster group care rates when determining the amount of the payment to claim for federal Title IV-E reimbursement. This calculation will be made at least annually, and providers will be notified of any changes in the allocation. The total combined reimbursement rate paid to the provider will not change.

This amendment does not provide for waivers in specified situations because the Department is required to reconcile claims charged to the IV-E Program and the allocation does not affect provider payments.

Any interested person may make written comments on the proposed amendment on or before February 16, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, 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.

This amendment is intended to implement Iowa Code section 234.38.

The following amendment is proposed.

Rescind paragraph **156.9(1)“d”** and adopt the following **new** paragraph in lieu thereof:

d. No less than annually, the department shall redetermine the allocation of the combined child welfare service per diem rate between the maintenance and service portions based on review of verified remedial services cost reports for foster group care services providers. If the new allocation differs from the current allocation, the department shall:

- (1) Reallocate the combined child welfare service per diem for foster group care between the maintenance and service portions of the combined rate; and
- (2) Notify all providers of any change in the allocation between maintenance and service rates and the effective date.

ARC 8492B**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 515F.37, the Insurance Division proposes to amend Chapter 20, “Property and Casualty Insurance Rate and Form Filing Procedures,” Iowa Administrative Code.

These amendments make changes to the rules governing the Iowa FAIR Plan and align the rules with the actual practices of the Plan. The amendments remove from consideration the failure to pay property taxes and maintain utilities as risk factors when new policies are written or existing policies are renewed. The requirement that a producer present a rejection notice is eliminated and replaced by the requirement to submit a written statement indicating the producer’s inability to obtain coverage in the voluntary market. These amendments also update citations that were rendered inaccurate due to the reorganization of Iowa Code chapter 515.

These amendments do not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed amendments on or before February 18, 2010. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to angela.burke.boston@iid.iowa.gov.

A public hearing will be held at the office of the Insurance Division at 2 p.m. on February 18, 2010. The Division is located at 330 Maple Street, Des Moines, Iowa.

These amendments are intended to implement Iowa Code section 515F.37.

The following amendments are proposed.

ITEM 1. Amend rule 191—20.52(515,515F) as follows:

191—20.52(515,515F) Reasonable underwriting standards for property coverage.

20.52(1) The following characteristics may be used in determining whether a risk is acceptable for property coverage. Where there is more than one cause for declination, all causes shall be listed and complied with before the property may be accepted for insurance purposes.

a. to c. No change.

~~*d.*—Characteristics of ownership or maintenance of building including any two of the following conditions:~~

~~(1) Failure to pay real estate taxes on a property after the taxes have been delinquent for one year or more. Real estate taxes shall not be deemed to be delinquent for this purpose even if they are due and constitute a lien so long as a grace period remains under local law during which such taxes may be paid without penalty.~~

~~(2) Failure, within the insured’s control, to furnish water for 30 consecutive days or more.~~

~~(3) Failure, within the insured’s control, to furnish heat for 30 consecutive days or more during the heating season.~~

~~(4) Failure, within the insured’s control, to furnish public lighting for 30 consecutive days or more.~~

~~*e. d.* Physical condition of buildings which results in an outstanding order to vacate, in an outstanding demolition order or in being declared unsafe in accordance with the applicable law.~~

INSURANCE DIVISION[191](cont'd)

~~f. e.~~ One or more of the conditions for nonrenewal as listed in 191—20.54(515,515F) currently exist. The Plan shall upon notice that conditions at the buildings have changed consider new application for coverage.

~~g. f.~~ Vandalism and malicious mischief coverage shall not be provided for a dwelling or commercial property where the property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately preceding 12-month period, or three or more such losses in the immediately preceding 24-month period.

~~h. g.~~ Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

~~i. h.~~ Any other guidelines which have been approved by the commissioner.

20.52(2) Reserved.

ITEM 2. Amend rule 191—20.54(515,515F) as follows:

191—20.54(515,515F) Cancellation; nonrenewal and limitations; review of eligibility.

20.54(1) The Plan shall not cancel or refuse to renew a policy issued by the Plan except for the following reasons:

a. No change.

b. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable due pursuant to paragraphs "~~l. j.~~" and "~~m. k.~~"

c. to g. No change.

~~h.~~ Utilities such as electric, gas or water services have been disconnected or the insured has failed to pay an account for such services within 120 days.

~~i.~~ Real estate taxes have not been paid for a two-year period after the taxes have become delinquent. Real estate taxes shall not be deemed to be delinquent for this purpose if they are due and constitute a lien so long as a grace period remains under local law under which taxes may be paid without penalty.

~~j. h.~~ There is good cause to believe, based on reliable information, that the building will be burned for the purpose of collecting the insurance on the property. The removal of damaged salvageable items, such as normally permanent fixtures, from the building shall be considered under this paragraph when the insured can provide no reasonable explanation for such removal.

~~k. i.~~ A named insured or loss payee or other person having a financial interest in the property being convicted of the crime of arson or a crime involving a purpose to defraud an insurance company. The fact that an appeal has been entered shall not negate the use of this paragraph.

~~l. j.~~ The property has been subject to more than two losses, each loss amounting to at least \$500 or 1 percent of the insurance in force, whichever is greater, in the immediately preceding 12-month period, or more than three such losses in the immediately preceding 24-month period, provided that the cause of such losses is due to the conditions which are the responsibility of the owner named insured or due to the actions of any person defined as an insured under the policy.

~~m. k.~~ Theft frequency in which there have been more than two thefts, each loss amounting to at least \$500, in a 12-month period.

~~n. l.~~ Material misrepresentation in any statement to the Plan.

~~o. m.~~ On homeowners policies, excessive theft or liability losses. If a given property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately preceding 12-month period, or three or more such losses in the immediately preceding 24-month period, the Plan may convert the homeowners policy to a dwelling policy without vandalism and malicious mischief coverage.

20.54(2) The Plan shall terminate all insurance contracts in accordance with Iowa Code sections 515.80 515.125, 515.81A 515.127, and 515.81B 515.128.

20.54(3) At the completion of 36 months of coverage and prior to the completion of 48 months, each risk shall be reviewed for its eligibility for coverage in the voluntary market. The risk shall be submitted by the Plan to the producer of record, if any, for a search of the voluntary market. If the producer resubmits the risk to the Plan, ~~it~~ the risk must be resubmitted with a new application and ~~accompanied~~

INSURANCE DIVISION[191](cont'd)

~~by a current rejection notice~~ a written statement from the producer that a search of the voluntary market was performed. ~~The Plan shall reinspect the risk before coverage is provided.~~

ARC 8491B**PUBLIC HEALTH DEPARTMENT[641]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 139A.8, the Department of Public Health hereby amends the Notice of Intended Action published in the Iowa Administrative Bulletin on December 16, 2009, as **ARC 8399B**. The Notice proposed to amend Chapter 7, "Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers, or Institutions of Higher Education," Iowa Administrative Code. The Department was unable to hold the public hearing scheduled for January 5, 2010, due to an issue with scheduling. This Amended Notice establishes a new public hearing date with seven locations.

The rules in Chapter 7 describe immunization requirements for attendance at elementary or secondary schools or licensed child care centers and requirements for immunization education of students entering institutions of higher education.

The amendments propose a change to the childhood vaccination schedule, specifically affecting the polio vaccine, based upon a new recommendation from the Centers for Disease Control (CDC). The amendments also add a new use of the immunization registry, which allows the Department to track inventory or utilization of pharmaceutical agents to prepare for or respond to an emergency event.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 18, 2010. Such written materials should be directed to Bridget Konz, Bureau of Disease Prevention and Immunization, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (800)831-6292. Persons who wish to convey their views orally should contact the Bureau of Disease Prevention and Immunization at (515)281-7228.

There will be a public hearing on February 18, 2010, from 9 to 10 a.m., 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.

This hearing will originate from the Iowa Communications Network (ICN) Room on the 6th floor of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, and will be accessible over the ICN from the following additional locations:

Mason City High School
1700 4th Street South, Room 276
Mason City

Ottumwa Regional Health Center
1001 E. Pennsylvania, Room 247
Ottumwa

Bettendorf Public Library
2950 Learning Campus Drive, Room 465
Bettendorf

West High School
2001 Casselman
Sioux City

Council Bluffs Community School District
2501 W. Broadway, Room 106
Council Bluffs

Department of Human Services
Pinecrest Office Building
1407 Independence Avenue
Waterloo

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 Bureau of Disease Prevention and Immunization and advise of specific needs.

These amendments were Adopted and Filed Emergency and were published in the December 16, 2009, Iowa Administrative Bulletin as **ARC 8377B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 139A.8.

ARC 8497B

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 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend 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 services providers and establish a standard of conduct for training programs, students, and providers. These proposed amendments allow a candidate to complete certification testing while being reviewed for certification, change the practical testing requirements, change the extension process for renewal, and incorporate the authority to levy civil penalties as granted in Iowa Code chapter 272C.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 16, 2010. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are proposed.

ITEM 1. Amend paragraph **131.4(1)“g”** as follows:

g. When a student’s EMS Student Registration or a candidate’s EMS Certification Application is referred to the department for investigation, or when a student or candidate is otherwise under investigation by the department, the individual shall not be eligible for certification testing, and the practical examination results will not be confirmed with the NREMT, until the individual is approved by the department.

ITEM 2. Amend subparagraph **131.4(1)“f”(1)** as follows:

(1) An FR or EMT-B candidate will test ~~three~~ all practical stations and have three opportunities to pass those ~~three~~ stations. The candidate’s first attempt at all ~~three~~ stations will constitute the first full attempt. Each retest of failed stations will constitute an additional full attempt.

ITEM 3. Rescind and reserve paragraph **131.4(3)“g.”**

ITEM 4. Adopt the following **new** paragraph **131.4(3)“i”**:

i. An individual shall be deemed to have complied with the continuing education requirements during periods that the individual serves honorably on active duty in the military services or for periods that the individual is a government employee working as an emergency medical care provider and assigned to duty outside the United States. The individual must submit the Affirmative Renewal Application, all appropriate fees and documentation of assignment.

ITEM 5. Adopt the following **new** paragraph **131.4(8)“i”**:

i. Extension fee—\$50.

ITEM 6. Adopt the following **new** subrule 131.4(12):

131.4(12) Extension of certification.

a. If an individual is unable to complete the required continuing education during the certification period due to a medical reason, an extension of certification may be issued upon submission of a signed statement from an appropriate medical provider and approval by the department. The letter must

PUBLIC HEALTH DEPARTMENT[641](cont'd)

include information concerning the reason the individual could not complete the continuing education requirements, the time period affected, and the length of time requested for extension.

b. If an individual is unable to attain all continuing education requirements within the certification period, a 45-day extension may be granted. To complete the extension process, the individual shall:

(1) Submit a Request for Extension Application, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems), at least 7 days prior to the expiration date, but no more than 90 days prior to the expiration date, and a \$50 extension fee.

(2) Be given 45 days from the current expiration date to complete continuing education requirements.

(3) Submit the EMS Affirmative Renewal of Certification Application, with all applicable renewal fees, to the department prior to the extended expiration date (based on the postmark date).

(4) Not use continuing education completed during the extension period in the subsequent renewal.

ITEM 7. Amend subrule 131.7(2), introductory paragraph, as follows:

131.7(2) The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, impose a civil penalty not to exceed \$1000, ~~or~~ place on probation, ~~or~~ issue a citation and warning, ~~or~~ suspend, ~~or~~ revoke, or otherwise discipline the certificate when it finds that the applicant or certificate holder has committed any of the following acts or offenses:

ARC 8498B

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 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 132, “Emergency Medical Services—Service Program Authorization,” Iowa Administrative Code.

The rules in Chapter 132 describe the standards for the authorization of EMS services. These proposed amendments remove regulations for air medical services, allow satellite services in other cities, ensure the public of an ambulance response when calling 911, reference the Iowa EMS Patient Registry Data Dictionary as the one currently adopted in the trauma rules, and incorporate the authority to levy civil penalties as granted in Iowa Code chapter 272C.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 16, 2010. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are proposed.

ITEM 1. Rescind the definitions of “Air ambulance,” “Fixed-wing aircraft” and “Rotorcraft ambulance” in rule **641—132.1(147A)**.

ITEM 2. Amend paragraph **132.7(1)“g”** as follows:

g. The certificate of authorization shall be issued ~~only~~ to the service program based in the city named in the application ~~and shall not be inclusive of any other base of operation when that base of operation is located in a different city.~~ Any ambulance service or nontransport service that ~~is based in and~~ operates from more than one city shall apply for and, if approved, shall receive ~~a separate an~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

inclusive authorization for each base of city of operation that desires to provide emergency medical care is listed in the application.

ITEM 3. Rescind and reserve subrule **132.7(3)**.

ITEM 4. Adopt the following new paragraph **132.8(3)“p”**:

p. Ensure a response to requests for assistance when dispatched by a public safety answering point within the primary service area identified in the service program’s authorization application.

ITEM 5. Amend subrule 132.8(7) as follows:

132.8(7) Adoption by reference. The Iowa EMS Patient Registry Data Dictionary (~~January 2004~~) identified in 641—paragraph 136.2(1)“*c*” is adopted and incorporated by reference for inclusion criteria and reportable patient data. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

a. The Iowa EMS Patient Registry Data Dictionary (~~January 2004~~) identified in 641—paragraph 136.2(1)“*c*” is available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the EMS bureau Web site (www.idph.state.ia.us/ems).

b. to f. No change.

ITEM 6. Amend subrule 132.10(3), introductory paragraph, as follows:

132.10(3) Service program authorization may be denied, issued a civil penalty not to exceed \$1000, issued a citation and warning, placed on probation, suspended, or revoked, or otherwise disciplined by the department in accordance with Iowa Code subsection 147A.5(3) for any of the following reasons:

ARC 8499B

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 147A.4, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 144, “Emergency Medical Services—Air Medical Service Program Authorization,” Iowa Administrative Code.

The rules in proposed Chapter 144 describe the requirements for authorization of emergency medical services’ air medical services.

Any interested person may make written comments or suggestions on the proposed rules on or before February 16, 2010. Such written comments should be directed to Kirk Schmitt, Bureau of Emergency Medical Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

These rules are intended to implement Iowa Code chapter 147A.

The following amendment is proposed.

Adopt the following new 641—Chapter 144:

CHAPTER 144

EMERGENCY MEDICAL SERVICES—AIR MEDICAL SERVICE PROGRAM AUTHORIZATION

641—144.1(147A) Definitions. For the purposes of this chapter, the following definitions shall apply:

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“Air ambulance” means any privately or publicly owned rotorcraft or fixed-wing aircraft which may be specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

“Air ambulance crew member” means an individual who has been trained to provide emergency and nonemergency medical care at the certification or licensure levels recognized by the department and who has been issued a certificate or license by the department.

“Air ambulance service” means any privately or publicly owned service program which utilizes rotorcraft or fixed-wing aircraft in order to provide patient transportation and emergency medical services.

“Continuous quality improvement” or *“CQI”* means a program that is an ongoing process to monitor standards at all EMS operational levels including the structure, process, and outcomes of the patient care event.

“Critical care paramedic” or *“CCP”* means a currently certified paramedic specialist who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

“Critical care transport” or *“CCT”* means specialty care patient transportation when medically necessary, for a critically ill or injured patient needing CCP skills, between medical care facilities, and provided by an authorized ambulance service that is approved by the department to provide critical care transportation and staffed by one or more critical care paramedics or other health care professional in an appropriate specialty area.

“Deficiency” means noncompliance with Iowa Code chapter 147A or these rules.

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“Direct supervision” means services provided by an EMS provider in a hospital setting or other health care entity in which health care is ordinarily performed when in the personal presence of a physician or under the direction of a physician who is immediately available or under the direction of a physician assistant or registered nurse who is immediately available and is acting consistent with adopted policies and protocols of a hospital or other health care entity.

“Emergency medical care” means such medical procedures as:

1. Administration of intravenous solutions.
2. Intubation.
3. Performance of cardiac defibrillation and synchronized cardioversion.
4. Administration of emergency drugs as provided by protocol.
5. Any medical procedure authorized by 641—subrule 131.3(3).

“Emergency medical care provider” means an individual who has been trained to provide emergency and nonemergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist or other certification levels recognized by the department before 1984 and who has been issued a certificate by the department.

“Emergency medical services” or *“EMS”* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

“Emergency medical technician-basic” or *“EMT-B”* means an individual who has successfully completed the current United States Department of Transportation’s Emergency Medical Technician-Basic curriculum and department enhancements, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-B.

“Emergency medical technician-paramedic” or *“EMT-P”* means an individual who has successfully completed the current United States Department of Transportation’s (DOT) EMT-intermediate curriculum or the 1985 or earlier DOT EMT-P curriculum, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-P.

“Emergency medical transportation” means the transportation by ambulance of sick, injured or otherwise incapacitated persons who require emergency medical care.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“EMS advisory council” means a council appointed by the director to advise the director and develop policy recommendations concerning regulation, administration, and coordination of emergency medical services in the state.

“EMS system” means any specific arrangement of emergency medical personnel, equipment, and supplies designed to function in a coordinated fashion.

“Endorsement” means providing approval in an area related to emergency medical care including, but not limited to, CCP and emergency medical services.

“FAA” means Federal Aviation Administration.

“FAR” means Federal Aviation Regulation.

“Fixed-wing ambulance” means any privately or publicly owned fixed-wing aircraft specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

“Hospital” means any hospital licensed under the provisions of Iowa Code chapter 135B.

“Inclusion criteria” means criteria determined by the department and adopted by reference to determine which patients are to be included in the Iowa EMS service program registry or the trauma registry.

“Iowa EMS Patient Registry Data Dictionary” means reportable data elements for all ambulance service responses and definitions determined by the department and adopted by reference.

“Medical direction” means direction, advice, or orders provided by a medical director, supervising physician, or physician designee (in accordance with written parameters and protocols) to emergency medical care personnel.

“Medical director” means any physician licensed under Iowa Code chapter 148, who shall be responsible for overall medical direction of the service program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties.

“Nonemergency transportation” means transportation that may be provided for those persons determined to need transportation only.

“NTSB” means National Transportation Safety Board.

“Off-line medical direction” means the monitoring of EMS providers through retrospective field assessments and treatment documentation review, critiques of selected cases with the EMS personnel, and statistical review of the system.

“On-line medical direction” means immediate medical direction provided directly to service program EMS providers, in accordance with written parameters and protocols, by the medical director, supervising physician or physician designee either on-scene or by any telecommunications system.

“Paramedic” or *“EMT-P”* means an emergency medical technician-paramedic.

“Paramedic specialist” or *“PS”* means an individual who has successfully completed the current United States Department of Transportation’s EMT-Paramedic curriculum or equivalent, has passed the department’s approved written and practical examinations, and is currently certified by the department as a paramedic specialist.

“Patient” means any individual who is sick, injured, or otherwise incapacitated.

“Patient care report” or *“PCR”* means a computerized or written report that documents the assessment and management of the patient by the emergency care provider in the out-of-hospital setting.

“Physician” means any individual licensed under Iowa Code chapter 148.

“Physician assistant” or *“PA”* means an individual licensed pursuant to Iowa Code chapter 148C.

“Physician designee” means any registered nurse licensed under Iowa Code chapter 152, or any physician assistant licensed under Iowa Code chapter 148C and approved by the board of physician assistants. The physician designee acts as an intermediary for a supervising physician in accordance with written policies and protocols in directing the care provided by emergency medical care providers.

“Preceptor” means an individual who has been assigned by the training program, clinical facility or service program to supervise students while the students are completing their clinical or field experience. A preceptor must be an emergency medical care provider certified at the level being supervised or higher, or must be licensed as a registered nurse, physician assistant or physician.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“Protocols” means written directions and orders, consistent with the department’s standard of care, that are to be followed by an emergency medical care provider in emergency and nonemergency situations. Protocols must be approved by the service program’s medical director and must address the care of both adult and pediatric patients.

“Registered nurse” or *“RN”* means an individual licensed pursuant to Iowa Code chapter 152.

“Reportable patient data” means data elements and definitions determined by the department and adopted by reference to be reported to the Iowa EMS service program registry or the trauma registry or a trauma care facility on patients meeting the inclusion criteria.

“Rotorcraft ambulance” means any privately or publicly owned rotorcraft specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

“Service director” means an individual who is responsible for the operation and administration of a service program.

“Service program” or *“service”* means any medical care air ambulance service that has received authorization by the department.

“Service program area” means the geographic area of responsibility served by any given ambulance or nontransport service program.

“Student” means any individual enrolled in a training program and participating in the didactic, clinical, or field experience portions.

“Supervising physician” means any physician licensed under Iowa Code chapter 148. The supervising physician is responsible for medical direction of emergency medical care personnel when such personnel are providing emergency medical care.

“Training program” means an NCA-approved Iowa college, the Iowa law enforcement academy or an Iowa hospital approved by the department to conduct emergency medical care training.

“Transport agreement” means a written agreement between two or more service programs that specifies the duties and responsibilities of the agreeing parties to ensure appropriate transportation of patients in a given service area.

641—144.2(147A) Authority of emergency medical care provider.

144.2(1) An emergency medical care provider who holds an active certification issued by the department may:

a. Render via on-line medical direction emergency and nonemergency medical care in those areas for which the emergency medical care provider is certified, as part of an authorized service program:

- (1) At the scene of an emergency;
- (2) During transportation to a hospital;
- (3) While in the hospital emergency department;
- (4) Until patient care is directly assumed by a physician or by authorized hospital personnel; and
- (5) During transfer from one entity where health care is normally provided to another.

b. Function in any hospital or any other entity in which health care is ordinarily provided only when under the direct supervision of a physician when:

- (1) Enrolled as a student in and approved by a training program;
- (2) Fulfilling continuing education requirements;
- (3) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider’s certification and under direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care personnel may perform, without direct

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supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient's life;

(4) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which certified and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse, including when the registered nurse is not acting in the capacity of a physician designee, and where the procedure may be immediately abandoned without risk to the patient.

144.2(2) When emergency medical care personnel are functioning in a capacity identified in paragraph 144.2(1) "a," they may perform emergency and nonemergency medical care without contacting a supervising physician or physician designee if written protocols have been approved by the service program medical director which clearly identify when the protocols may be used in lieu of voice contact.

144.2(3) An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days.

641—144.3(147A) Air ambulance service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization.

144.3(1) *General requirements for air ambulance authorization and renewal of authorization.*

a. An air ambulance service in this state that desires to provide emergency medical care in an out-of-hospital setting shall apply to the department for authorization to establish a program utilizing certified emergency medical care providers for delivery of care at the scene of an emergency or a nonemergency, during transportation to a hospital, during transfer from one medical care facility to another, or while in the hospital emergency department and until care is directly assumed by a physician or by authorized hospital personnel. Application for authorization shall be made on forms provided by the department. Applicants shall complete and submit the forms to the department at least 30 days prior to the anticipated date of authorization.

b. To renew service program authorization, the service program shall continue to meet the requirements of Iowa Code chapter 147A and these rules. The renewal application shall be completed and submitted to the department at least 30 days before the current authorization expires.

c. Applications for authorization and renewal of authorization may be obtained upon request to: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

d. The department shall approve an application when the department is satisfied that the program proposed by the application will be operated in compliance with Iowa Code chapter 147A and these rules.

e. Service program authorization is valid for a period of three years from its effective date unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked.

f. Service programs shall be fully operational upon the effective date and at the level specified on the certificate of authorization and shall meet all applicable requirements of Iowa Code chapter 147A and these rules. Deficiencies that are identified shall be corrected within a time frame determined by the department.

g. Any service program owner in possession of a certificate of authorization as a result of transfer or assignment shall continue to meet all applicable requirements of Iowa Code chapter 147A and these rules. In addition, the new owner shall apply to the department for a new certificate of authorization within 30 days following the effective date of the transfer or assignment.

h. Service programs that acquire and maintain current status with a nationally recognized EMS service program accreditation entity that meets or exceeds Iowa requirements may be exempted from the service application/inspection process. A copy of the state service application and accreditation inspection must be filed with the department for approval.

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144.3(2) *Out-of-state air ambulance service programs.*

a. Service programs located in other states which wish to provide emergency medical care in Iowa must meet all requirements of Iowa Code chapter 147A and these rules and must be authorized by the department except when:

- (1) Transporting patients from locations within Iowa to destinations outside of Iowa;
- (2) Transporting patients from locations outside of Iowa to destinations within Iowa;
- (3) Transporting patients to and from locations outside of Iowa when doing so requires travel through Iowa;
- (4) Responding to a request for mutual aid in this state; or
- (5) Making less than 30 EMS responses per year to locations within Iowa and then transporting the patients to destinations within Iowa.

b. An out-of-state service program that meets any of the exception criteria established in this subrule shall be authorized to provide emergency medical care by the state in which the program resides and shall provide the department with verification of current state authorization upon request.

144.3(3) *Air ambulance service program inspections.*

a. The department shall inspect each service program at least once every three years. The department without prior notification may make additional inspections at times, places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

b. The department may request additional information from or may inspect the records of any service program which is currently authorized or which is seeking authorization to ensure continued compliance or to verify the validity of any information presented on the application for service program authorization.

c. The department may inspect the patient care records of a service program to verify compliance with Iowa Code chapter 147A and these rules.

d. No person shall interfere with the inspection activities of the department or its agents pursuant to Iowa Code section 135.36.

e. Interference with or failure to allow an inspection by the department or its agents may be cause for disciplinary action in reference to service program authorization.

144.3(4) *Temporary service program authorization.*

a. A temporary service program authorization may be issued to services that wish to operate during special events that may need emergency medical care coverage at a level other than basic care. Temporary authorization is valid for a period of 30 days unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked. Temporary authorization shall apply to those requirements and standards for which the department is responsible. Applicants shall complete and submit the necessary forms to the department at least 30 days prior to the anticipated date of need.

b. The service shall meet applicable requirements of these rules but may apply for a variance using the criteria outlined in rule 641—144.7(147A).

c. The service shall submit a justification which demonstrates the need for the temporary service program authorization.

d. The service shall submit a report to the department within 30 days after the expiration of the temporary authorization which includes as a minimum:

- (1) Number of patients treated;
- (2) Types of treatment rendered;
- (3) Any operational or medical problems.

641—144.4(147A) *Service program levels of care and staffing standards.*

144.4(1) An air ambulance service program seeking authorization shall:

a. Apply for authorization at the following levels:

- (1) EMT-Basic.
- (2) Paramedic specialist.
- (3) Critical care transport.

b. Conduct all air ambulance service flights under a minimum of FAR rules, Part 135.

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c. Maintain an adequate number of aircraft and personnel to provide 24-hour-per-day, 7-day-per-week coverage. The number of aircraft and personnel to be maintained shall be determined by the service and shall be based upon, but not limited to, the following:

- (1) Number of calls;
- (2) Service area and population; and
- (3) Availability of other services in the area.

d. Staff fixed-wing ambulances, at a minimum on each flight request, with the following staff while a patient is being transported:

- (1) One health care provider who is certified or licensed in the state from which the aircraft launches and is certified as an EMT-Basic or higher level; and
- (2) One FAA-certified commercial pilot who is appropriately rated in the aircraft being used for the transport.

e. Staff rotorcraft ambulances, at a minimum on each flight request, with the following staff while a patient is being transported:

- (1) Two health care providers who are certified or licensed in the state from which the aircraft launches, one of whom must at a minimum be certified as a paramedic specialist; and
- (2) One FAA-certified commercial pilot who is appropriately rated in the aircraft being used for the transport.

f. Train medical crew members in the following areas:

- (1) Patient care limitations in flight.
- (2) Altitude physiology.
- (3) Appropriate utilization of air medical services.
- (4) Communication system.
- (5) Aircraft operations and safety.
- (6) Emergency safety and survival.
- (7) Prehospital scene response and safety.
- (8) Crew resource management.
- (9) Program flight risk assessment procedures.

g. Apply to the department to receive approval to provide critical care transportation based upon appropriately trained staff and approved equipment.

h. Ensure that the health care provider with the highest level of certification (on the transporting service) attends the patient, unless otherwise established by protocol approved by the medical director.

144.4(2) Air ambulance service program operational requirements. Air ambulance service programs shall:

a. Complete and maintain a patient care report concerning the care provided to each patient. Services shall provide, at a minimum, a verbal report upon delivery of a patient to a receiving facility and shall provide a complete PCR within 24 hours to the receiving facility.

b. Ensure that personnel duties are consistent with the level of certification and the service program's level of authorization.

c. Maintain current personnel rosters and personnel files. The files shall include the names and addresses of all personnel and documentation that verifies EMS provider credentials including, but not limited to:

- (1) Current provider level certification.
- (2) Current course completions/certifications/endorsements as may be required by the medical director.

d. If requested by the department, notify the department in writing of any changes in personnel rosters.

e. Have a medical director and 24-hour-per-day, 7-day-per-week on-line medical direction available.

f. Ensure that the appropriate service program personnel respond as required in this rule and that personnel respond in a reasonable amount of time.

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g. Notify the department in writing within seven days of any change in service director or ownership or control or of any reduction or discontinuance of operations.

h. Select a new or temporary medical director if for any reason the current medical director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current medical director relinquishes the duties and responsibilities of that position.

i. Within seven days of any change of medical director, notify the department in writing of the selection of the new or temporary medical director who must have indicated in writing a willingness to serve in that capacity.

j. Implement a continuous quality improvement program for patient transport missions to include as a minimum:

- (1) Medical audits.
 - (2) Skills competency.
 - (3) Flight safety procedures.
 - (4) Appropriateness of air medical response.
 - (5) Review of flight risk assessment.
 - (6) Loop closure requiring physician review of patient transport missions.
- k.* Document an equipment maintenance program to ensure proper working condition and appropriate quantities.

144.4(3) Air ambulance equipment and vehicle standards.

a. All air ambulance service programs shall carry equipment and supplies in quantities as determined by the medical director and appropriate to the service program's level of care and available medical crew member personnel, and as established in the service program's approved protocols.

b. Pharmaceutical drugs may be carried and administered by appropriate staff upon completion of training and pursuant to the service program's established protocols approved by the medical director.

c. All pharmaceuticals shall be maintained in accordance with the rules of the state board of pharmacy.

d. Accountability for drug exchange, distribution, storage, ownership, and security shall be subject to applicable state and federal requirements. The method of accountability shall be described in the written pharmacy agreement. A copy of the written pharmacy agreement shall be submitted to the department.

e. Each aircraft shall be equipped and maintained in accordance with FAA operating requirements.

f. Each aircraft shall be equipped with a survival kit.

144.4(4) Communications and flight dispatch program.

a. Each service program shall maintain a telecommunications system between the medical crew member and the source of the service program's medical direction and other appropriate entities.

b. All telecommunications shall be conducted in an appropriate manner and on a frequency approved by the Federal Communications Commission and the department.

c. A flight-following policy shall be adopted. This policy shall at a minimum contain the following:

- (1) Minimum time between communications with aircraft and its monitoring center;
- (2) Documentation of communications with flight;
- (3) Lost communications procedures; and
- (4) Overdue aircraft procedures.

d. Flight programs shall provide staff or contract with a flight dispatch system for receiving flight requests. Communication specialists shall be trained in the following:

- (1) Flight operations;
- (2) Aviation weather;
- (3) Aviation maintenance;
- (4) Flight following;
- (5) Flight risk assessment;
- (6) Flight service minimum safety standards; and
- (7) Overdue aircraft procedures.

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144.4(5) Flight risk assessment policy.

- a. Each service shall have a flight risk assessment policy in accordance with current FAA guidelines.
- b. Flight risk assessment policies shall mandate adherence to policy for all flights.
- c. Flight risk assessment policies shall address other flight services being requested, en route, or having been denied request to same incident.

144.4(6) Air ambulance service program—incident and accident response and reports.

- a. Air medical services shall have a policy in place outlining missing/overdue/accident issues. This policy will contain at a minimum the following:

- (1) Overdue aircraft procedures; and
- (2) Postincident action plans.

- b. Incidents of fire or other destructive or damaging occurrences or theft of a service program aircraft, vehicle, equipment, or drugs shall be reported to the department within 48 hours following the occurrence of the incident.

- c. A report relating to an accident resulting in personal injury, death or property damage shall be submitted to the department within seven days following an accident involving a service program aircraft or vehicle. A complete FAA/NTSB accident report shall be submitted to the bureau of EMS upon completion of the report.

144.4(7) Reportable patient data—adoption by reference.

- a. The department shall prepare compilations for release or dissemination on all reportable patient data entered into the EMS service program registry during the reporting period. The compilations shall include, but not be limited to, trends and patient care outcomes for local, regional, and statewide evaluations. The compilations shall be made available to all service programs submitting reportable patient data to the registry.

- b. Access and release of reportable patient data and information.

- (1) The data collected by and furnished to the department pursuant to this subrule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code subsection 22.7(2). However, information which individually identifies patients shall not be disclosed, and state and federal law regarding patient confidentiality shall apply.

- (2) The department may approve requests for reportable patient data for special studies and analysis provided that the request has been reviewed and approved by the deputy director of the department with respect to the scientific merit and confidentiality safeguards and the department has given administrative approval for the proposal. The confidentiality of patients and the EMS service program shall be protected.

- (3) The department may require entities requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable patient data.

- c. To the extent possible, activities under this subrule shall be coordinated with other health data collection methods.

- d. Quality assurance.

- (1) For the purpose of ensuring the completeness and quality of reportable patient data, the department or an authorized representative may examine all or part of the patient care report as necessary to verify or clarify all reportable patient data submitted by a service program.

- (2) Review of a patient care report by the department shall be scheduled in advance with the service program and completed in a timely manner.

- e. “Iowa Trauma Patient Data Dictionary” is available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

- f. “Iowa EMS Patient Registry Data Dictionary” identified in 641—paragraph 136.2(1)“c” is incorporated by reference for inclusion criteria and reportable patient data to be reported to the department. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

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g. “Iowa EMS Patient Registry Data Dictionary” identified in 641—paragraph 136.2(1) “c” is available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

144.4(8) An air ambulance service program shall:

a. Submit reportable patient data identified in subrule 144.4(7) via electronic transfer. Data shall be submitted in a format approved by the department.

b. Submit reportable patient data identified in subrule 144.4(7) to the department for each calendar quarter. Reportable patient data shall be submitted no later than 90 days after the end of the quarter.

144.4(9) The patient care report is a confidential document and shall be exempt from disclosure pursuant to Iowa Code subsection 22.7(2) and shall not be accessible to the general public. Information contained in these reports, however, may be utilized by any of the indicated distribution recipients and may appear in any document or public health record in a manner which prevents the identification of any patient or person named in these reports.

144.4(10) Implementation. The director may grant exceptions and variances from the requirements of this chapter for any air medical service. Exceptions or variations shall be reasonably related to undue hardships which existing services experience in complying with this chapter. Services requesting exceptions and variances shall be subject to other applicable rules adopted pursuant to Iowa Code chapter 147A. Nothing in this chapter shall be construed to require any service to provide a level of care beyond minimum basic care standards.

641—144.5(147A) Air ambulance service program—off-line medical direction.

144.5(1) The medical director shall be responsible for providing appropriate medical direction and overall supervision of the medical aspects of the service program and shall ensure that those duties and responsibilities are not relinquished before a new or temporary replacement is functioning in that capacity.

144.5(2) The medical director’s duties include, but need not be limited to:

a. Developing, approving and updating protocols to be used by service program personnel that meet or exceed the minimum standard protocols developed by the department.

b. Developing and maintaining liaisons between the service, other physicians, physician designees, hospitals, and the medical community served by the service program.

c. Monitoring and evaluating the activities of the service program and individual personnel performance, including establishment of measurable outcomes that reflect the goals and standards of the EMS system.

d. Assessing the continuing education needs of the service and individual service program personnel and assisting them in the planning of appropriate continuing education programs.

e. Being available for individual evaluation and consultation to service program personnel.

f. Performing or appointing a designee to complete the medical audits required in subrule 144.5(4).

g. Developing and approving an applicable continuous quality improvement policy to be used for all patient care encounters, including an action plan and follow-up.

h. Informing the medical community of the emergency medical care being provided according to approved protocols in the service program area.

i. Helping to resolve service operational problems.

j. Approving or removing an individual from service program participation.

144.5(3) Supervising physicians, physician designees, or other appointees as defined in the continuous quality improvement policy referenced in paragraph 144.5(2) “g” may assist the medical director by:

a. Providing medical direction.

b. Reviewing the emergency medical care provided.

c. Reviewing and updating protocols.

d. Providing and assessing continuing education needs for service program personnel.

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e. Helping to resolve operational problems.

144.5(4) The medical director or other qualified designees shall randomly audit (at least quarterly) documentation of calls where emergency medical care was provided. The medical director shall randomly review audits performed by the qualified appointee. The audit shall be in writing and shall include, but need not be limited to:

a. Reviewing the patient care provided by service program personnel and remedying any deficiencies or potential deficiencies that may be identified regarding medical knowledge or skill performance.

b. Response time and time spent at the scene.

c. Overall EMS system response to ensure that the patient's needs were matched to available resources including, but not limited to, mutual aid and tiered response.

d. Completeness of documentation.

144.5(5) On-line medical direction when provided through a hospital.

a. The medical director shall designate in writing at least one hospital which has established a written on-line medical direction agreement with the department. It shall be the medical director's responsibility to notify the department in writing of changes regarding this designation.

b. Hospitals signing an on-line medical direction agreement shall:

(1) Ensure that the supervising physicians or physician designees will be available to provide on-line medical direction via telecommunications on a 24-hour-per-day basis.

(2) Identify the service programs for which on-line medical direction will be provided.

(3) Establish written protocols for use by supervising physicians and physician designees who provide on-line medical direction.

(4) Administer a quality assurance program to review orders given. The program shall include a mechanism for the hospital and service program medical directors to discuss and resolve any identified problems.

c. A hospital which has a written medical direction agreement with the department may provide medical direction for any or all service program authorization levels and may also agree to provide backup on-line medical direction for any other service program when that service program is unable to contact its primary source of on-line medical direction.

d. Only supervising physicians or physician designees shall provide on-line medical direction. However, a physician assistant, registered nurse or EMT (of equal or higher level) may relay orders to emergency medical care personnel, without modification, from a supervising physician. A physician designee may not deviate from approved protocols.

e. The hospital shall provide, upon request to the department, a list of supervising physicians and physician designees providing on-line medical direction.

f. The department may verify a hospital's communications system to ensure compliance with the on-line medical direction agreement.

g. A supervising physician or physician designee who gives orders (directly or via communications equipment from some other point) to an emergency medical care provider is not subject to criminal liability by reason of having issued the orders and is not liable for civil damages for acts or omissions relating to the issuance of the orders unless the acts or omissions constitute recklessness.

h. Nothing in these rules requires or obligates a hospital, supervising physician or physician designee to approve requests for orders received from emergency medical care personnel.

NOTE: Hospitals in other states may participate provided that the applicable requirements of this subrule are met.

641—144.6(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal.

144.6(1) All complaints regarding the operation of authorized air medical service programs, or those purporting to be or operating as the same, shall be reported to the department. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

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144.6(2) Complaints and the investigative process will be treated as confidential in accordance with Iowa Code section 22.7 and chapter 272C.

144.6(3) Air ambulance service program authorization may be denied or a program may be disciplined as provided in subrule 144.6(4) by the department in accordance with Iowa Code subsections 147A.5(3) and 272C.3(2) for any of the following reasons:

- a. Knowingly allowing the falsifying of a patient care report (PCR).
- b. Failure to submit required reports and documents.
- c. Delegating professional responsibility to a person when the service program knows that the person is not qualified by training, education, experience or certification to perform the required duties.
- d. Practicing, condoning, or facilitating discrimination against a patient, student or employee based on race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability diagnosis, or social or economic status.
- e. Knowingly allowing sexual harassment of a patient, student or employee. Sexual harassment includes sexual advances, sexual solicitations, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- f. Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.
- g. Obtaining or attempting to obtain or renew or retain service program authorization by fraudulent means or misrepresentation or by submitting false information.
- h. Engaging in conduct detrimental to the well-being or safety of the patients receiving or who may be receiving emergency medical care.
- i. Failure to correct a deficiency within the time frame required by the department.

144.6(4) Method of discipline. The department has the authority to impose the following disciplinary sanctions against an authorized service program:

- a. Issue a citation and warning.
- b. Impose a civil penalty not to exceed \$1,000.
- c. Require additional education or training.
- d. Impose a period of probation under specified conditions.
- e. Prohibit permanently, until further order of the department, or for a specific period a service program's ability to engage in specific procedures, methods, acts, or activities incident to the practice of the profession.
- f. Suspend an authorization until further order of the department or for a specific period.
- g. Revoke an authorization.
- h. Impose such other sanctions as allowed by law and as may be appropriate.

144.6(5) The department shall notify the applicant of the granting or denial of authorization or renewal, or shall notify the alleged violator of action to issue a citation and warning, place on probation, suspend or revoke authorization or renewal pursuant to Iowa Code sections 17A.12 and 17A.18. Notice of issuance of a denial, citation and warning, probation, suspension or revocation shall be served by restricted certified mail, return receipt requested, or by personal service.

144.6(6) Any requests for appeal concerning the denial, citation and warning, probation, suspension or revocation of service program authorization or renewal shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the notice shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, citation and warning, probation, suspension or revocation. If no request for appeal is received within the 20-day time period, the department's notice of denial, probation, citation and warning, suspension or revocation shall become the department's final agency action.

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144.6(7) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

144.6(8) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

144.6(9) When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 144.6(10).

144.6(10) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

144.6(11) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections, and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

144.6(12) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

144.6(13) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

144.6(14) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Bureau of Emergency Medical Services, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

144.6(15) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

144.6(16) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or an employer.

144.6(17) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

144.6(18) Emergency adjudicative proceedings.

a. Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend authorization in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

b. Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

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(1) Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;

(2) Whether the specific circumstances which pose immediate danger to the public health, safety, or welfare have been identified and determined to be continuing;

(3) Whether the program required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;

(4) Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and

(5) Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

c. Issuance of order.

(1) An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

(2) The written emergency adjudicative order shall be immediately delivered to the service program that is required to comply with the order by utilizing one or more of the following procedures:

1. Personal delivery.

2. Certified mail, return receipt requested, to the last address on file with the department.

3. Facsimile. Fax may be used as the sole method of delivery if the service program required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

(3) To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

(4) Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the service program that is required to comply with the order.

(5) After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

(6) Issuance of a written emergency adjudicative order shall include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the service program that is required to comply with the order is the party requesting the continuance.

641—144.7(147A) Temporary variances.

144.7(1) If during a period of authorization there is some occurrence that temporarily causes a service program to be in noncompliance with these rules, the department may grant a temporary variance. Temporary variances from these rules (not to exceed six months in length per any approved request) may be granted by the department to a currently authorized service program. Requests for temporary variances shall apply only to the service program requesting the variance and shall apply only to those requirements and standards for which the department is responsible.

144.7(2) To request a variance, the service program shall:

a. Notify the department verbally (as soon as possible) of the need to request a temporary variance. Submit to the department, within ten days after having given verbal notification to the department, a written explanation for the temporary variance request. The address and telephone number are Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075; (515)725-0326.

b. Cite the rule from which the variance is requested.

c. State why compliance with the rule cannot be maintained.

d. Explain the alternative arrangements that have been or will be made regarding the variance request.

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e. Estimate the period of time for which the variance will be needed.

144.7(3) Upon notification of a request for variance, the department shall consider, but shall not be limited to the following:

a. Examining the rule from which the temporary variance is requested to determine if the request is appropriate and reasonable.

b. Evaluating the alternative arrangements that have been or will be made regarding the variance request.

c. Examining the effect of the requested variance upon the level of care provided to the general populace served.

d. Requesting additional information if necessary.

144.7(4) Preliminary approval or denial shall be provided verbally within 24 hours. Final approval or denial shall be issued in writing within ten days after department receipt of the written explanation for the temporary variance request and shall include the reason for approval or denial. If approval is granted, the effective date and the duration of the temporary variance shall be clearly stated.

144.7(5) Any request for appeal concerning the denial of a request for temporary variance shall be in accordance with the procedures outlined in rule 641—144.6(147A).

641—144.8(147A) Transport options for air medical services.

144.8(1) Upon responding to an emergency call, air medical services may make a determination at the scene as to whether air medical transportation is needed. The determination shall be made by a medical crew member and shall be based upon protocol and concurrence of medical control approved by the service program's medical director. When the medical crew member applies this protocol to determine the appropriate transport option, the following criteria, as a minimum, shall be used :

a. Primary assessment;

b. Focused history and physical examination;

c. Chief complaint;

d. Name, address and age of the individual in need of emergency assistance; and

e. Nature of the call for assistance.

144.8(2) Air medical transportation shall be provided whenever any of the above criteria indicate that treatment should be initiated. If treatment is not indicated, the air medical service program shall make arrangements for alternate transportation, if indicated.

These rules are intended to implement Iowa Code chapter 147A.

ARC 8493B

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 sections 17A.3 and 135.11, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 170, “Description of Organization,” and to adopt a new Chapter 170, “Organization of the Department,” Iowa Administrative Code.

This proposed new chapter provides a description of the organization of the Department, which states the general course and method of its operations; the administrative subdivisions of the Department and the programs implemented by each of them; a statement of the mission of the Department; and the methods by which and location where the public may obtain information or make submissions or requests.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Any interested person may make written comments or suggestions on the proposed rules on or before February 16, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to bnervig@idph.state.ia.us.

These rules are intended to implement Iowa Code section 17A.3 and chapter 135.

The following amendment is proposed.

Rescind 641—Chapter 170 and adopt the following new chapter in lieu thereof:

CHAPTER 170
ORGANIZATION OF THE DEPARTMENT

641—170.1(17A,135) Definitions.

“Department” means the Iowa department of public health.

“Deputy director” means the deputy director of the department of public health.

“Director” means the director of the department of public health.

641—170.2(17A,135) Mission. The mission of the department of public health is to promote and protect the health of Iowans. The department strives to improve the quality of life for all Iowans by:

1. Preventing epidemics and the spread of disease;
2. Protecting against environmental hazards;
3. Preventing injuries;
4. Promoting healthy behaviors;
5. Preparing for, responding to, and recovering from public health emergencies;
6. Improving access to quality health services; and
7. Strengthening the public health infrastructure.

641—170.3(17A,136) State board of health. The state board of health is the policymaking body for the Iowa department of public health and has the power and duty to adopt, promulgate, amend and repeal rules; consider legislation; and advise or make recommendations to the governor, general assembly, and director relative to public health, hygiene, and sanitation.

170.3(1) The state board of health consists of 11 members appointed by the governor.

170.3(2) The state board of health meets on the second Wednesday of July and on the second Wednesday of each second month thereafter and at such other times as may be deemed necessary by the president of the board.

641—170.4(17A,135) Director of the department of public health. The director is the chief administrative officer of the department, and in that capacity is responsible for the programs and services of the department. The director provides the department with national exposure and works with policymakers in both Iowa and Washington, D.C.

170.4(1) The following are the duties and responsibilities of the director. The director:

- a. Oversees the establishment of the administrative organization;
- b. Makes recommendations to the state board of health;
- c. Oversees the adoption of rules for the implementation of statutes;
- d. Serves as secretary to the state board of health;
- e. Serves as spokesperson and advocate for public health across the state of Iowa, regionally and nationally;
- f. Acts as a liaison to local boards of health, local public health administrators, health care providers, and consumers;
- g. Represents the department in a variety of state and national organizations; and
- h. Serves as the incident commander during public health emergencies and disasters.

170.4(2) Acting director.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. The director may appoint an employee of the department to serve as acting director, who shall have all the powers and duties of the director.

b. The director may appoint more than one acting director, but only one acting director shall exercise the powers and perform the duties of the director at any time.

641—170.5(17A,135) Deputy director.

170.5(1) Under the direction of the director, the deputy director has the following duties and responsibilities. The deputy director:

a. Is responsible for the operations of the department, including but not limited to fiscal and personnel management.

b. Supervises and evaluates the work of the department's division directors.

c. Working with the director, is responsible for developing policy, legislation and administrative rules.

d. Assists the director in the development of policies related to marketing and communications, both internally and externally with other agencies, partners, and the public.

e. Provides advice to the director on matters relating to department strategic planning, goals, mission and programs.

f. Represents the director at private, state, and national meetings.

g. Reports on department accomplishments and performance to the director.

h. Is responsible for departmentwide strategic and performance plans, including preparation of the annual report.

i. Serves as the deputy incident commander during public health emergencies and disasters.

j. Represents the director during the director's absence.

170.5(2) The deputy director also serves as the director of one of the divisions in the department.

641—170.6(17A,135) Executive team. The executive team serves as the leadership team for the department. The director appoints the members of the executive team.

170.6(1) The executive team assists the department director with strategic planning, policy development, and programmatic decision making.

170.6(2) The executive team members communicate division-level information that contributes to intradepartmental and interdepartmental planning and utilization of resources.

641—170.7(17A,135) Administrative divisions of the department. The department is divided into seven organizational units. In addition to the director's office, there are six divisions in the department, each directed by a division director who reports either to the deputy director or the director.

170.7(1) Office of the director. The following are included in the office of the director.

a. Medical director. The medical director of the department is a doctor of medicine (M.D.) or osteopathy (D.O.), specializing in public health, who serves as a medical advisor to the department, medical professionals, and the public. The medical director may also serve as the state epidemiologist.

b. Office of state medical examiner. The mission of the office of state medical examiner is to establish credibility in death investigation in a system that will operate efficiently and serve the needs of the citizens of Iowa. This is done by providing assistance, direction, and training to county medical examiner personnel and law enforcement officials. Staff is responsible for conducting death investigations and performing autopsies.

c. Dental board. The dental board consists of nine members and has the overall responsibility for regulating the professions of dentistry, dental hygiene, and dental assisting in Iowa.

d. Board of medicine. The board of medicine, consisting of ten members, regulates the practice of medicine and surgery, osteopathic medicine and surgery, osteopathy and acupuncture.

e. Board of nursing. The six-member board of nursing enforces regulations for nursing education, nursing practice and continuing education for nurses.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

f. Board of pharmacy. The seven-member board of pharmacy is responsible for regulating the practice of pharmacy and the legal distribution and dispensing of prescription drugs and precursor substances throughout Iowa.

170.7(2) Division of acute disease prevention and emergency response. This division provides support, technical assistance, education and consultation regarding departmentwide strategic and project planning, personnel resources, public information, infectious disease prevention and control, injury prevention and control, emergency medical services, and public health and health care emergency preparedness and response. Division programs within these areas also provide regulatory functions. The deputy state epidemiologist and state public health veterinarian are in this division and report to the division director. Included in the division are the following bureaus and centers.

a. The bureau of communication and planning (CAP) provides communication services to the public, public health partners, media, governor's office, and legislators concerning public health programs, services, statutory requirements, administrative rules, and health-related issues. The bureau leads planning work to develop the department's strategic plan and measure and evaluate performance; improve the dissemination of public health data; and improve and evaluate the public health system in Iowa. The bureau provides administrative services to the state health facilities council and manages the certificate of need program. The bureau ensures a competent workforce through human resources and workforce development services.

b. The center for acute disease epidemiology (CADE) works to protect and preserve the health and safety of Iowans from infectious diseases through disease surveillance; investigation of acute outbreaks; education and consultation to county, local, and private health agencies on infectious diseases; immunization and vaccine guidelines; treatment after animal bites; and vaccines for international travel. The center also provides consultation to county and local health agencies on diseases requiring public health intervention; collaborates with the Centers for Disease Control and Prevention by weekly reporting of nationally reportable diseases; and offers health education opportunities through lectures and organizational seminars.

c. The bureau of emergency medical services (EMS) is responsible for EMS provider certification and renewal, service program authorization, and trauma care facility certification and renewal. The bureau provides leadership and resource support for planning, medical direction, EMS education, public education and injury prevention. Through oversight and coordination, the bureau's objective is the development, implementation and evaluation of a comprehensive statewide EMS system.

d. The center for disaster operations and response (CDOR) is responsible for the development and implementation of emergency plans and operating procedures for the department while ensuring integration into Iowa's Homeland Security and Emergency Management Plan. CDOR works with local public health agencies, hospitals, and other health care entities to ensure communications, capacity, capability, emergency planning, drills and exercises, and education to detect, respond to, and recover from bioterrorism, public health emergencies, and other disasters that may affect the health of Iowans. Additionally, CDOR is responsible for the department's emergency coordination center (ECC), continuity of operations plan, Iowa public health response teams, and the Strategic National Stockpile (SNS).

e. The bureau of immunization and tuberculosis works to protect the health of Iowans from vaccine-preventable diseases and tuberculosis, with the goal of reducing and ultimately eliminating the incidence of these diseases. The bureau conducts surveillance and prevention activities in conjunction with public and private health care providers. Surveillance activities include disease monitoring and reporting, laboratory testing, disease investigation, and rapid institution of disease control measures, including isolation and quarantine. Bureau prevention and treatment activities include targeted disease testing, vaccination programs, dispensing medications, health care provider consultation, and education.

f. The office of health information technology works to ensure a healthier Iowa through the use and exchange of electronic health information to improve patient-centered health care and population health. The office leads planning work to implement statewide electronic exchange of health information to improve the quality of health care, ensure patient safety, and increase efficiency in health care delivery.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

170.7(3) *Division of administration and professional licensure.* This division provides services for birth, marriage and death certificates; monitors and reports progress on health objectives and identifies emerging health issues; coordinates 19 licensing boards regulating the activities of 39 health professions; provides fiscal management of department funding and contract administration; and provides software, network and computer support. The following bureaus are included in this division.

a. The bureau of finance provides support to department staff in functions of fiscal and office services, including fiscal management of revenues and expenditures, coordination of office supply purchases, contract administration, use of state vehicles, mail, printing, and inventory control.

b. The bureau of information management provides information technology support for the department, including maintaining the local area network, core software applications, mainframe access, program-specific software application development, hardware installation and help-desk activities.

c. The bureau of professional licensure provides staff support in licensing and certification to the following boards:

- (1) Athletic training.
- (2) Barbering.
- (3) Behavioral science.
- (4) Chiropractic.
- (5) Cosmetology arts and sciences.
- (6) Dietetics.
- (7) Hearing aid dispensers.
- (8) Sign language interpreters and transliterators.
- (9) Massage therapy.
- (10) Mortuary science.
- (11) Nursing home administrators.
- (12) Optometry.
- (13) Physical and occupational therapy.
- (14) Physician assistants.
- (15) Podiatry.
- (16) Psychology.
- (17) Respiratory care.
- (18) Social work.
- (19) Speech pathology and audiology.

d. The bureau of health statistics provides certified copies of birth, death, and marriage records to Iowans and other entitled persons.

170.7(4) *Division of behavioral health.* This division promotes the prevention of substance abuse and problem gambling, secondary conditions among people with disabilities, and violent behavior. The division also regulates substance abuse and gambling treatment programs. The division is responsible for approving laboratories that desire to perform drug-testing services for businesses located or doing business in Iowa. Included in the division are the following bureaus and offices.

a. The bureau of administration, regulation, and licensure licenses and monitors substance abuse treatment programs, including community-based and hospital-based programs, assessment and evaluation services, and operating while intoxicated (OWI) correctional and correctional institution programs. The bureau also licenses and monitors problem gambling treatment programs in Iowa.

b. The bureau of substance abuse prevention and treatment provides leadership and resources pertaining to substance abuse in the state. The bureau focuses on both substance abuse prevention and treatment and oversees resources provided by the state and federal governments.

c. The office of gambling treatment and prevention provides funding on a sliding fee scale for outpatient counseling for families, concerned persons, and gamblers affected by problem gambling. The program serves as a resource for all Iowans by providing information, referral, and educational services.

d. The office of injury prevention strives to address the burden of injury on the public health by disseminating information about injury, deaths and hospitalizations and promoting programs directed at preventing both intentional and unintentional injuries.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

e. The bureau of HIV, STD, and hepatitis administers programs for the prevention, detection, and treatment of HIV, chlamydia, gonorrhea, syphilis, and viral hepatitis. Program staff provides information, training, and funding to local public health agencies and community-based organizations for prevention and control of these diseases; offers counseling, testing, and referral services; notifies sexual and needle-sharing partners of potential exposures; provides medications, case management, and supportive services for diagnosed persons; and collects data on disease diagnoses to be used for program planning and evaluation related to prevention and care.

170.7(5) *Division of environmental health.* This division provides both educational and regulatory services to ensure a safe and healthy environment for Iowans. The state toxicologist is in this division and reports to the division director. Included in the division are the following bureaus and offices.

a. The bureau of radiological health regulates facilities that use radioactive materials or utilize ionizing radiation-producing machines; credentials persons who use radioactive material or operate ionizing radiation-producing machines; and provides emergency response related to radioactive materials and nuclear power plant incidents.

b. The bureau of lead poisoning prevention ensures that children are tested for lead poisoning and provides medical and environmental case management for cases of childhood lead poisoning through direct services and grant support to local public health partners. The bureau also regulates professionals who work with lead-based paint through required notification, certification, and work practice standards for those individuals. In addition, the bureau conducts surveillance and education on lead exposure, pesticide exposure, and occupational health and safety issues.

c. The bureau of environmental health services provides assessment, education, consultation, technical assistance and resource referral related to the delivery of environmental health services, emergency response, and regulatory functions to local public health agencies and local boards of health. In addition, the bureau provides consultation and assistance to the public on environmental health matters. The bureau also has regulatory oversight for public swimming pools and spas, water treatment devices, backflow prevention assembly testers, tattoo artists and establishments, and migrant labor camps. In addition, the bureau conducts Grade A milk rating inspections.

d. The office of plumbing and mechanical systems supports the plumbing and mechanical systems board and administers licensing and continuing education requirements for professionals in the plumbing, mechanical, hydronics and refrigeration trades.

170.7(6) *Division of health promotion and chronic disease prevention.* This division promotes and supports healthy behaviors and communities, the prevention and management of chronic diseases, and the development of public health infrastructure and access to health care services at local and state levels. Included in the division are the following bureaus and offices.

a. The bureau of nutrition and health promotion provides nutrition education, supplemental foods, breast-feeding promotion and support, and referrals for health services for low-income women and their children through the Women, Infants and Children (WIC) program. Health promotion programs bring state and local partners together to build a network of health partners dedicated to healthy nutrition and physical activity and provide funding and technical support/coaching to Iowa communities for community wellness initiatives.

b. The oral health bureau, overseen by the public health dental director, promotes and advances health behaviors to reduce the risk of oral diseases and improve the oral health status of all Iowans. Programs are in place targeting pregnant women, children, and youth for the prevention, early identification, referral, and treatment of oral disease.

c. The bureau of local public health provides education, ongoing technical assistance, monitoring, and support to local boards of health and local public health agencies for the development and delivery of services that contribute to compliance with the Iowa Public Health Standards. The bureau acts as a direct liaison between the department and the local public health system to achieve a common goal of promoting and protecting the health of Iowans and contributing to the state of Iowa's goal of becoming a "healthy community."

d. The office of multicultural health assists in fostering partnerships between state government programs, local governments, community groups, and ethnic/racial communities, assists in policy

PUBLIC HEALTH DEPARTMENT[641](cont'd)

analysis to improve health care access and services for minority populations, and advocates for policies and practices that will reduce health disparities among Iowa's minority, immigrant, and refugee populations.

e. The office for healthy communities works to build healthy communities, thus supporting the department's vision of healthy people in healthy communities. Communities benefit from technical assistance and support services that improve the capacity of communities to plan and implement health improvement programs.

f. The bureau of family health promotes the health of Iowa families by developing family-centered, community-based, coordinated, and culturally sensitive systems of care for women, infants, children, and adolescents and their families.

g. The bureau of health care access advocates for quality health care delivery systems for all Iowans and provides information, referrals, education, grant opportunities, technical assistance, and planning for Iowa communities. The bureau is the designated state entity for addressing rural health, primary care and health care workforce issues in Iowa and works to improve access to health care for vulnerable populations.

h. The bureau of chronic disease prevention and management supports the development and implementation of services that help prevent chronic disease or assist in the detection and management of chronic disease, including cancer, cardiovascular disease and diabetes.

170.7(7) *Division of tobacco use prevention and control.* This division promotes partnerships among state government, local communities, and the people of Iowa to reduce tobacco use. The division works to reduce tobacco use and the toll of tobacco-caused disease and death by preventing youth from starting to smoke, helping adults to quit smoking, and preventing exposure to secondhand smoke.

641—170.8(17A) Central office. The address of the central office is: Iowa Department of Public Health, Sixth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. Locations of specific offices and regional offices may be obtained by writing to the department at the above address.

641—170.9(17A) Business hours. The normal business hours of the department are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. One notable exception is the vital records section, which staffs a customer service window just inside the north entrance of the Lucas State Office Building from 7 a.m. to 4:45 p.m., Monday through Friday, except legal holidays.

641—170.10(17A) Submission of materials. Requests for applications and submission of applications and other materials shall be made directly to the division of the department administering the relevant program. Any person who submits materials should enclose a cover letter which states the use for which the materials are intended. Where the administrative rules give a specific procedure, such procedure should be followed.

641—170.11(17A) Requests for information. Requests for information concerning programs within the department should be addressed to the specific division of the department. General requests for information may be made to: Public Information Officer, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The department's home page on the Internet, www.idph.state.ia.us, also features a "contact us" option.

These rules are intended to implement Iowa Code section 17A.3 and chapter 135.

ARC 8494B**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 sections 17A.7 and 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 171, “Petitions for Rule Making,” Iowa Administrative Code.

This chapter provides a description of the procedure for the submission, consideration and disposition of a petition for rule making. The proposed amendment strikes the reference to 1998 Iowa Acts.

Any interested person may make written comments or suggestions on the proposed amendment on or before February 16, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to bnervig@idph.state.ia.us.

This amendment is intended to implement Iowa Code section 17A.7.

The following amendment is proposed.

Amend **641—Chapter 171**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ARC 8495B**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 sections 17A.9 and 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 172, “Declaratory Orders,” Iowa Administrative Code.

This chapter provides a description of the form, content and filing of petitions for declaratory orders, the procedural rights of persons in relation to the petitions, and the disposition of the petitions. The proposed amendments strike the references to 1998 Iowa Acts.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 16, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to bnervig@idph.state.ia.us.

These amendments are intended to implement Iowa Code section 17A.9.

The following amendments are proposed.

ITEM 1. Amend subrule 172.8(1) as follows:

172.8(1) Within the time allowed by ~~1998 Iowa Acts, chapter 1202, section 13(5)~~ Iowa Code section 17A.9, after receipt of a petition for a declaratory order, the department or designee shall take action on the petition as required by ~~1998 Iowa Acts, chapter 1202, section 13(5)~~ Iowa Code section 17A.9.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 2. Amend subrule 172.9(1), introductory paragraph, as follows:

172.9(1) The department shall not issue a declaratory order where prohibited by ~~1998 Iowa Acts, chapter 1202, section 13(1), Iowa Code section 17A.9~~ and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

ITEM 3. Amend ~~641—~~**Chapter 172**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 5.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

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

New official state interest rates, effective January 12, 2010, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .20%
One year to 397 days	Minimum .55%
More than 397 days	Minimum 1.15%

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

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

ARC 8488B**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]****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 35A.3(2), the Commission of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Veterans Home,” Iowa Administrative Code.

This proposed amendment fixes a discrepancy in the language between Iowa Veterans Home subrule 10.47(7) and Iowa Code section 17A.19(5).

Any interested person may make written suggestions or comments on the proposed amendment on or before February 16, 2010. Such written materials should be directed to John Mathes, Interim Commandant, Iowa Veterans Home, 1301 Summit Street, Marshalltown, Iowa 50158-5485, or faxed to (641)753-4278. E-mail may be sent to john.mathes@ivh.state.ia.us. Persons who wish to convey their views orally should contact the Commandant’s office at (641)753-4309 at the Iowa Veterans Home.

If requested in writing, a public hearing on the proposed amendment will be held on February 17, 2010, at 1 p.m. in the Ford Memorial Conference Room at the Iowa Veterans Home, 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. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Iowa Veterans Home to advise of specific needs. If no written or oral requests for a public hearing are received, the public hearing will be canceled without further notice.

This proposed amendment is not subject to waiver.

This amendment is intended to implement Iowa Code chapter 35D.

The following amendment is proposed.

Amend subrule 10.47(7) as follows:

10.47(7) If a member is not satisfied with the decision of the department of inspections and appeals, the member may seek judicial review in accordance with Iowa Code chapter 17A. A member’s discharge under rule 801—10.43(35D) shall not be stayed while judicial review is pending.

ARC 8489B**AGING, DEPARTMENT ON[17]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 231.14, the Department on Aging hereby amends and transfers Chapters 1 to 28, Iowa Administrative Code, from the Department of Elder Affairs to the Department on Aging.

2009 Iowa Acts, Senate File 204, amended Iowa Code chapter 231 to provide for various technical changes, including a change in the Department's name from the "Department of Elder Affairs" to the "Department on Aging," a change in the Commission's name from the "Commission of Elder Affairs," to the "Commission on Aging," and a change in references from "elders" to "older individuals." This rule making amends the Department's rules to comply with the Act by changing these references.

2009 Iowa Acts, House File 811, amended Iowa Code section 231.58 to eliminate the requirement for the Senior Living Coordinating Unit (SLCU). This rule making amends the Department's rules to comply with the Act by eliminating references to the SLCU in the Department's rules.

2007 Iowa Acts, Senate File 601, transferred the regulatory authority for adult day services, assisted living programs, and elder group homes from the Department on Aging to the Department of Inspections and Appeals. This rule making amends the Department's rules to comply with the Act by eliminating references to authority under Iowa Code chapters 231B, 231C, and 231D and adding 231E.

The Department was notified by the Administrative Code Editor that the change in the Department's name will cause the Department's placement in the alphabetical list of the agencies in the Iowa Administrative Code (IAC) to move from "321" to "17." This rule making amends the Department's rules by directing the Administrative Code Editor to change all references from "321" to "17" and transfer the Department's rules from "321" to "17."

Item 17 of this rule making is a technical change that removes unnecessary definitions for "child" and "grandparent or elder who is a relative caregiver" from Chapter 7 because the definitions are now included in Chapter 14, "Iowa Family Caregiver Support Program."

Other technical changes in this rule making include correction of references to the Department's Web site and telephone number.

For good cause and pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to adoption of these amendments pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest because these amendments provide for the implementation of 2009 Iowa Acts, Senate File 204, 2009 Iowa Acts, House File 811, and 2007 Iowa Acts, Senate File 601.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 7, 2010. These amendments confer a benefit upon the public by providing for the implementation of 2009 Iowa Acts, Senate File 204, 2009 Iowa Acts, House File 811, and 2007 Iowa Acts, Senate File 601.

These amendments are intended to implement Iowa Code chapters 231, 231E and 249H, 2009 Iowa Acts, Senate File 204, 2009 Iowa Acts, House File 811, and 2007 Iowa Acts, Senate File 601.

These amendments became effective January 7, 2010.

The following amendments are adopted.

AGING, DEPARTMENT ON[17](cont'd)

ITEM 1. Transfer **321—Chapters 1 to 28 to 17—Chapters 1 to 28.**

ITEM 2. Amend **17—Chapter 1** by replacing all references to “department of elder affairs” with “department on aging,” replacing all references to “commission of elder affairs” with “commission on aging,” replacing all references to “DEA” with “IDA,” and replacing all references to “321” with “17.”

ITEM 3. Amend rule 17—1.1(231) as follows:

17—1.1(231) Authority and purpose. The rules of the Iowa department ~~of elder affairs~~ on aging are based on the authority of Iowa Code chapters 231, ~~231B, 231C, 231D,~~ 231E, 235B and 249H. These rules prescribe requirements:

1. That agencies shall meet to receive grants under the Older Americans Act and other funds administered through the Iowa department ~~of elder affairs~~ on aging;

~~2. For certification and operation of elder group homes, assisted living programs, and adult day services;~~

~~3.~~ 2. For planning, administration and service delivery for the department as well as the area agencies on aging;

~~4.~~ 3. Of the department’s fiscal policy;

~~5.~~ 4. To request waivers or variances from administrative rules;

~~6.~~ 5. For monitoring, complaint investigation and penalties for programs under the department’s jurisdiction; and

~~7.~~ 6. For operation, administration and planning of the long-term care resident’s advocate/ombudsman office and other entities under the department’s purview which assist in ensuring quality care and protection of Iowa’s ~~elders~~ older individuals.

ITEM 4. Amend rule **17—1.4(231)**, definition of “DEA,” as follows:

“~~DEA~~ IDA” means the Iowa department ~~of elder affairs~~ on aging established in Iowa Code chapter 231.

ITEM 5. Rescind the definition of “SLCU” in rule **17—1.4(231)**.

ITEM 6. Amend the following definitions in rule **17—1.5(231)**:

“*Comprehensive and coordinated system*” means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

1. No change.

2. Develop and make the most efficient use of supportive services and nutrition services to meet the needs of ~~elders~~ older individuals with a minimum of duplication.

3. and 4. No change.

“*Continuum of care*” means a full range of economic, physical, psychological, social and support programs and services necessary to maintain or restore ~~elders~~ older individuals to their optimal environment.

“*Department of elder affairs on aging*” or “*department*” means the sole state agency responsible for administration of the Older Americans Act and Iowa Code chapters 231,~~231B, 231C, and 231D~~ 231E and 249H and other applicable laws or rules.

“*Director*” means the director of the Iowa department ~~of elder affairs~~ on aging.

“~~Elder~~ Older individual” means a person aged 60 or older.

“*Greatest social need*” means the need caused by noneconomic factors, which include physical and mental disabilities, language barriers, and cultural, geographic or social isolation including isolation caused by racial or ethnic status, that restrict an individual’s ability to perform normal daily tasks or that threaten the ~~elder’s~~ older individual’s capacity to live independently.

“*Instrumental activities of daily living*” or “*IADL*” means those activities that reflect the ~~elder’s~~ older individual’s ability to perform household and other tasks necessary to meet the ~~elder’s~~ older individual’s needs within the community, which may include but are not limited to shopping, housekeeping, chores, and traveling within the community.

AGING, DEPARTMENT ON[17](cont'd)

ITEM 7. Rescind the definition of “Senior living coordinating unit” in rule **17—1.5(231)**.

ITEM 8. Amend **17—Chapter 2** by replacing all references to “department of elder affairs” with “department on aging,” replacing all references to “commission of elder affairs” with “commission on aging,” replacing all references to “elder” with “older individual,” and replacing all references to “321” with “17.”

ITEM 9. Amend paragraph **2.3(2)“c”** as follows:

c. From the Web site at ~~http://www.ia.state.us/elderaffairs~~ www.aging.iowa.gov.

ITEM 10. Amend **17—Chapter 3** by replacing all references to “department of elder affairs” with “department on aging,” replacing all references to “commission of elder affairs” with “commission on aging,” and replacing all references to “321” with “17.”

ITEM 11. Amend subrule 3.3(8) as follows:

3.3(8) Dates and locations of commission meetings may be obtained from the department’s Web site at ~~www.state.ia.us/elderaffairs~~ www.aging.iowa.gov or directly from the department by calling ~~(515)242-3333~~ (515)725-3333.

ITEM 12. Amend **17—Chapter 4** by replacing all references to “department of elder affairs” with “department on aging,” replacing all references to “elder” with “older individual,” and replacing all references to “321” with “17.”

ITEM 13. Amend **17—Chapter 5** by replacing all references to “department of elder affairs” with “department on aging” and replacing all references to “321” with “17.”

ITEM 14. Amend **17—Chapter 5**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 231 and 249H.

ITEM 15. Amend **17—Chapter 6** by replacing all references to “department of elder affairs” with “department on aging,” replacing all references to “elder” with “older individual,” replacing all references to “321” with “17,” and replacing all references to “www.ia.state.us/elderaffairs” with “www.aging.iowa.gov.”

ITEM 16. Amend **17—Chapter 7** by replacing all references to “elder” with “older individual” and replacing all references to “321” with “17.”

ITEM 17. Rescind the definitions of “Child” and “Grandparent or elder who is a relative caregiver” in rule **17—7.1(231)**.

ITEM 18. Amend **17—Chapter 8** by replacing all references to “department of elder affairs” with “department on aging” and replacing all references to “321” with “17.”

ITEM 19. Amend **17—Chapter 9** by replacing all references to “department of elder affairs” with “department on aging” and replacing all references to “321” with “17.”

ITEM 20. Amend **17—Chapter 10** by replacing all references to “department of elder affairs” with “department on aging,” replacing all references to “elder” with “older individual,” and replacing all references to “321” with “17.”

ITEM 21. Amend **17—Chapter 11** by replacing all references to “department of elder affairs” with “department on aging” and replacing all references to “321” with “17.”

ITEM 22. Amend **17—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 22, and 231 and 249H and Executive Order Number 11.

AGING, DEPARTMENT ON[17](cont'd)

ITEM 23. Amend **17—Chapter 13** by replacing all references to “department of elder affairs” with “department on aging,” replacing all references to “commission of elder affairs” with “commission on aging,” and replacing all references to “321” with “17.”

ITEM 24. Amend **17—Chapter 14** by replacing all references to “321” with “17.”

ITEM 25. Amend **17—Chapter 17** by replacing all references to “department of elder affairs” with “department on aging.”

ITEM 26. Amend **17—Chapter 18** by replacing all references to “department of elder affairs” with “department on aging” and replacing all references to “321” with “17.”

ITEM 27. Amend **17—Chapter 19** by replacing all references to “department of elder affairs” with “department on aging” and replacing all references to “321” with “17.”

ITEM 28. Amend **17—Chapter 21** by replacing all references to “321” with “17.”

ITEM 29. Amend **17—Chapter 22** by replacing all references to “department of elder affairs” with “department on aging” and replacing all references to “321” with “17.”

ITEM 30. Amend **17—Chapter 28** by replacing all references to “321” with “17.”

[Filed Emergency 1/7/10, effective 1/7/10]

[Published 1/27/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/27/10.

ARC 8496B

CORRECTIONS DEPARTMENT[201]

Adopted and Filed

Pursuant to the authority of Iowa Code section 904.108, the Iowa Department of Corrections hereby adopts amendments to Chapter 38, "Sex Offender Management and Treatment," Iowa Administrative Code.

The purpose of these amendments is to ensure that the Department's administrative rules are consistent with 2009 Iowa Acts, Senate File 340, which makes statutory changes to the Iowa sex offender registry process. 2009 Iowa Acts, Senate File 340, took effect on July 1, 2009. The amendments adopted herein implement the changes made by that legislation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8321B**. A public hearing was held on December 22, 2009, from 11 a.m. to 1 p.m. in the Second Floor Conference Room of the Department of Corrections. No one attended the public hearing, and no oral or written testimony was received. Two minor, nonsubstantive edits were made to these amendments. The risk assessment instrument designations in paragraphs 38.2(3)"a" and "b" have been corrected.

These amendments were approved during the January 8, 2010, meeting of the Board of Corrections.

These amendments will become effective on March 3, 2010.

These amendments are intended to implement Iowa Code section 904.108 and 2009 Iowa Acts, Senate File 340.

The following amendments are adopted.

ITEM 1. Amend rule 201—38.1(692A,903B) as follows:

201—38.1(692A,903B) Application of rules. The following rules apply to sex offender registration electronic monitoring and hormonal intervention therapy.

ITEM 2. Rescind rule 201—38.2(692A,903B) and adopt the following new rule in lieu thereof:

201—38.2(692A,903B) Electronic monitoring. It is the intent of the Iowa department of corrections that the electronic monitoring system (EMS) shall be used to enhance public safety. Appropriate levels of EMS should be used to verify the location and restrict the movement of sex offenders based upon a validated risk assessment, the sex offender's criminal history, progress in treatment and supervision, and other relevant factors. EMS is additionally governed by the provisions of department of corrections policy OP-SOP-06.

38.2(1) Definitions.

"*Electronic monitoring system*" or "*EMS*" is a term used collectively for technology that determines the location of offenders who have restricted movement while being supervised in their respective community. EMS may also incorporate the ability to conduct random substance abuse testing.

"*Offender*" means a person who is required to register with the Iowa sex offender registry.

38.2(2) Selection of offenders for EMS. All offenders on supervision for a current sex offense who are required to be registered as a sex offender under Iowa Code chapter 692A shall be placed on EMS immediately after assignment to supervision. This level may be changed based on risk assessment.

38.2(3) Risk assessment instrument. All required risk assessments shall be conducted utilizing the risk assessment instruments outlined below as approved by the department of corrections. The risk assessment should be completed within 30 days prior to the offender's release from custody or upon the offender's placement on probation, parole, or work release.

a. *Static 99—revised.* Designed for adult male sex offenders aged 18 and over and juvenile male offenders waived to adult court who have a specific identified victim.

b. *ISORA.* Designed for adult male and female sex offenders aged 18 and over who may or may not have a specific identified victim.

CORRECTIONS DEPARTMENT[201](cont'd)

c. Stable 2007. Designed to assess dynamic risk factors for sex offense recidivism for the purpose of treatment, supervision, and monitoring of sex offenders primarily on community correctional supervision.

d. Level of service inventory—revised. A quantitative risk assessment instrument to determine the offender's criminogenic risk, programming needs and the required level of service.

38.2(4) Notification of victims. A judicial district department of correctional services shall notify a registered victim regarding a sex offender convicted of a sex offense against a minor who is under the supervision of a judicial district department of correctional services of the following:

a. The beginning date for use of an electronic tracking and monitoring system to supervise the sex offender and the type of electronic tracking and monitoring system used.

b. The date of any modification to the use of an electronic tracking and monitoring system and the nature of the change.

NOTE: Notification includes the initial notification to victims of the date that an offender has been placed on an electronic monitoring device, notification as to the date an electronic monitoring device was changed with greater or less monitoring capabilities (GPS to radio frequency or radio frequency to GPS), and notification as to the date the offender was removed from an EMS.

38.2(5) Additional rules. The department of public safety's rules regarding the Iowa sex offender registry are published in 661—Chapter 83.

ITEM 3. Rescind and reserve rule **201—38.3(692A)**.

ITEM 4. Amend **201—Chapter 38**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340, and Iowa Code chapter 903B.

[Filed 1/8/10, effective 3/3/10]

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ARC 8487B

HISTORICAL DIVISION[223]

Adopted and Filed

Pursuant to the authority of Iowa Code section 303.1A, the Director of the Department of Cultural Affairs amends Chapter 49, "Historical Resource Development Program Grants," Iowa Administrative Code.

The amendment to Chapter 49 adds language that clarifies the Certified Local Government requirement for grant applicants in the Historic Preservation category.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8336B**. The Department of Cultural Affairs sought input about the proposed amendment by holding a public hearing on December 22, 2009. One member of the public made a comment relevant to the proposed amendment in support of the amendment. This amendment is identical to that which was published under Notice.

The Department Director approved and adopted this amendment on January 6, 2010.

This amendment is intended to implement Iowa Code chapter 303.

This amendment will become effective on March 3, 2010.

The following amendment is adopted.

Amend rule 223—49.3(303) as follows:

223—49.3(303) Funding policies. The grant programs shall be conducted according to published guidelines that outline funding priorities, review criteria, application forms, adjudication processes and

HISTORICAL DIVISION[223](cont'd)

grantee requirements. Programs include REAP/HRDP regular grants, REAP/HRDP emergency grants, and country school grants.

49.3(1) to 49.3(12) No change.

49.3(13) Grant funds shall not be awarded to a city or county government for a project in the historic preservation category unless the city or county government has been approved as a Certified Local Government (CLG) by the National Park Service and determined to be a CLG in good standing by the state historic preservation office (SHPO). CLG cities, counties, and land use districts must be current in their submission of Iowa CLG annual report forms to be considered in good standing.

49.3(13) 49.3(14) All government, nonprofit corporation, or Indian tribe applicants shall demonstrate that the historical resource is accessible to the public no less than an average of 16 hours per week or shall provide a statement concerning actions to be taken in the forthcoming 36 months after the grant award to provide the above-specified accessibility of the funded project to the public, unless access is restricted by specific federal or state code. Archaeological sites that are part of funded projects are not required by this program to be accessible to the public.

49.3(14) 49.3(15) All private corporations, businesses, and individual applicants shall demonstrate that the historical resources which benefit from being acquired, developed or preserved, or the portions of the historical resource so benefited, shall be accessible to the public no less than an average of 96 hours per year or shall provide a statement concerning actions to be taken in the forthcoming 36 months after the grant award to provide the above-specified accessibility of the funded project to the public, unless access is restricted by specific federal or state code. Archaeological sites that are part of funded projects are not required by this program to be accessible to the public.

49.3(15) 49.3(16) A grantee shall credit the historical resource development program in all promotions, publicity, advertising, and printed materials relating to the grant-supported project, with the following credit line or a reasonable facsimile: "This program is supported in part by the State Historical Society of Iowa, Historical Resource Development Program." Noncompliance with this requirement shall jeopardize future funding of the grantee by the historical division.

49.3(16) 49.3(17) The historical division may, for cause, find that a grantee is not in compliance with the requirements of this program or the terms of the contract. At the division's discretion, remedies for noncompliance may include penalties or the repayment of program funds. Reasons for a finding of noncompliance include but are not limited to: the grantee's use of program funds for activities not described in its application or not permitted under the program; the grantee's failure to complete approved activities in a timely manner; the grantee's failure to comply with any applicable professional standards, state rules, or federal regulations; the lack of a continuing capacity on the part of the grantee to carry out the approved program in a timely manner; or violation of the terms of the contract.

[Filed 1/7/10, effective 3/3/10]

[Published 1/27/10]

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AGENCY	RULE	DELAY
Educational Examiners Board[282]	11.4(3) to 11.4(5) [IAB 12/16/09, ARC 8406B]	Effective date of January 20, 2010, delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held January 5, 2010. [Pursuant to §17A.8(9)]