



IOWA ADMINISTRATIVE BULLETIN

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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.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

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 2B.5A, 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 2014

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
17	Friday, January 31, 2014	February 19, 2014
18	Friday, February 14, 2014	March 5, 2014
19	Friday, February 28, 2014	March 19, 2014

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 regular, statutory meeting on Friday, February 7, 2014, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Renewal cycle for reinstated licensees, 10.5(7) Notice **ARC 1284C**..... 1/8/14

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Grape and wine development funding program, rescind ch 52 Filed **ARC 1290C**..... 1/22/14
Trichomoniasis testing of bulls brought into Iowa, 65.4(3)"c" Filed **ARC 1278C**..... 1/8/14
Other financial statements for grain warehouse operators and grain dealers, 90.8, 91.8
Notice **ARC 1280C**..... 1/8/14

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Registration—retired status, 2.5, 2.11 Notice **ARC 1282C**..... 1/8/14

CHILD ADVOCACY BOARD[489]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Court appointed special advocate program, chs 4, 5 Notice **ARC 1285C**..... 1/8/14

ECONOMIC DEVELOPMENT AUTHORITY[261]

Tax credits for investments in qualifying businesses—time frame for submittal of
documentation, 115.9(1) Notice **ARC 1289C**..... 1/22/14

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Teacher intern license—minimum grade point average, 13.9(3) Notice **ARC 1272C**..... 1/8/14

EMPLOYMENT APPEAL BOARD[486]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Online filing of unemployment insurance appeals, 2.2, 3.1(2) Notice **ARC 1269C**..... 1/8/14

HUMAN SERVICES DEPARTMENT[441]

Appeals and hearings, amendments to ch 7 Filed **ARC 1261C**..... 1/8/14
Confidentiality of support payment records, 9.11, 97.3(3) Filed **ARC 1262C**..... 1/8/14
State supplementary assistance program—annual adjustments to eligibility and payment
levels, 51.4(1), 51.7, 52.1 Notice **ARC 1267C**, also Filed Emergency **ARC 1268C**..... 1/8/14
Medicaid—member lock-in, 75.30 Notice **ARC 1265C**, also Filed Emergency **ARC 1266C**..... 1/8/14
Nonemergency medical transportation, 78.13 Filed **ARC 1264C**..... 1/8/14
Healthy and well kids in Iowa (HAWK-I) program, amendments to ch 86
Filed Emergency After Notice **ARC 1287C**..... 1/8/14
Record check evaluations for certain employers and educational training programs, 119.1 to
119.5 Filed **ARC 1263C**..... 1/8/14

INSPECTIONS AND APPEALS DEPARTMENT[481]

Limitations on food activities for assisted living and adult day services programs not licensed
as food establishments, 69.28(6), 70.28(6) Notice **ARC 1291C**..... 1/22/14

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Credit for reinsurance—update of cross references, 5.33 Filed **ARC 1279C**..... 1/8/14
Duties of pharmacy benefits managers and insurers, 59.1 to 59.10 Notice **ARC 1295C**..... 1/22/14

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Bidder preferences in government contracting, ch 156 Filed **ARC 1271C**..... 1/8/14

LOTTERY AUTHORITY, IOWA[531]

Suspension of retailers for ticket sales to underage persons, 12.12(4) Notice **ARC 1283C**..... 1/8/14

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Mortuary science—funeral director duties, record keeping, internship, preceptorship, licensure by endorsement, 100.1, 100.2, 100.11, 101.5, 101.8 Filed **ARC 1274C**..... 1/8/14
- Mortuary science—disposition of remains, renewal notices, 100.10(3), 101.10(1), 101.13(2) Filed **ARC 1275C**..... 1/8/14

PUBLIC HEALTH DEPARTMENT[641]

- Vision screening, ch 52 Notice **ARC 1293C**..... 1/22/14
- Vital records—overpayment of fees, 95.6(2) Notice **ARC 1294C**..... 1/22/14
- Scope of practice for emergency medical care providers, 131.3(3)"b," 132.2(4)"b" Notice **ARC 1292C**..... 1/22/14

TRANSPORTATION DEPARTMENT[761]

- Automated traffic enforcement on the primary road system, ch 144 Filed **ARC 1260C**..... 1/8/14
- Bridge safety fund, rescind ch 162 Notice **ARC 1288C**..... 1/22/14
- Aviation programs—eligibility; funding; application process; project review, approval, and administration, amendments to chs 700, 710, 715 to 717 Notice **ARC 1270C**..... 1/8/14

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COMMERCE DEPARTMENT[181]"umbrella"

- Pole attachment procedures, 25.4 Filed **ARC 1259C**..... 1/8/14

VOTER REGISTRATION COMMISSION[821]

- Revision of official Iowa voter registration application, 2.16 Notice **ARC 1281C**..... 1/8/14

WORKFORCE DEVELOPMENT DEPARTMENT[871]

- Vacation pay deductible from unemployment, 24.13(3), 24.16(1) Notice **ARC 1286C**..... 1/8/14
- Online filing of unemployment insurance appeals, 26.4 to 26.6, 26.9, 26.16 Filed **ARC 1276C**..... 1/8/14
- Appealing party’s participation in appeal hearing, 26.14 Filed **ARC 1277C**..... 1/8/14

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.

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Representative Lisa Heddens
4115 Wembley Avenue
Ames, Iowa 50010

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

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

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Representative Jeff Smith
1006 Brooks North Lane
Okoboji, Iowa 51355

Senator Roby Smith
2036 East 48th Street
Davenport, Iowa 52807

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

Joseph A. Royce
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-8451

Brenna Findley
Administrative Rules Coordinator
Governor’s Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

ACCOUNTANCY EXAMINING BOARD[193A]

Renewal cycle for reinstated licensees, 10.5(7) IAB 1/8/14 ARC 1284C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	January 28, 2014 9 a.m.
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ARCHITECTURAL EXAMINING BOARD[193B]

Registration—retired status, 2.5, 2.11 IAB 1/8/14 ARC 1282C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	January 28, 2014 9 a.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Teacher intern license—minimum grade point average, 13.9(3) IAB 1/8/14 ARC 1272C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	February 5, 2014 1 p.m.
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INSURANCE DIVISION[191]

Duties of pharmacy benefits managers and insurers, 59.1 to 59.10 IAB 1/22/14 ARC 1295C	Division Offices, Fourth Floor Two Ruan Center 601 Locust Street Des Moines, Iowa	February 11, 2014 10 a.m.
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TRANSPORTATION DEPARTMENT[761]

Bridge safety fund, rescind ch 162 IAB 1/22/14 ARC 1288C	First Floor South Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	February 13, 2014 10 a.m. (If requested)
Aviation programs—eligibility; funding; application process; project review, approval, and administration, amendments to chs 700, 710, 715 to 717 IAB 1/8/14 ARC 1270C	First Floor South Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	January 30, 2014 10 a.m. (If requested)

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Vacation pay deductible from unemployment, 24.13(3), 24.16(1) IAB 1/8/14 ARC 1286C	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	January 29, 2014 1 p.m. (If requested)
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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 1289C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 15.106A, the Economic Development Authority gives Notice of Intended Action to amend Chapter 115, “Tax Credits for Investments in Qualifying Businesses and Community-Based Seed Capital Funds,” Iowa Administrative Code.

The rules in Chapter 115 describe the tax credits for investments in qualifying businesses and community-based seed capital funds. These amendments update an existing rule to provide qualifying businesses a period of time in which to gather and submit the necessary documentation to demonstrate that the equity financing requirements have been met.

The Economic Development Authority Board approved these amendments at a Board meeting on December 20, 2013.

Interested persons may submit comments on or before February 11, 2014. Comments may be submitted to Kristin Hanks, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-0440; e-mail kristin.hanks@iowa.gov.

These amendments do not have any fiscal impact to the state of Iowa.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 15E.44.

The following amendments are proposed.

ITEM 1. Amend paragraph **115.9(1)“a,”** introductory paragraph, as follows:

a. Within 24 months from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall ~~provide to the authority information and documentation sufficient to demonstrate that the business has~~ have secured total equity or near equity financing equal to at least \$250,000. The business shall provide to the authority information and documentation sufficient to demonstrate that the business has secured total equity or near equity financing equal to at least \$250,000 and that such financing was secured within the 24 months required by this rule and shall do so by the equity deadline. For purposes of this subrule 115.9(1), the “equity deadline” shall be the next June 30 following the end of the calendar year in which the qualifying business is required to have secured total equity or near equity financing equal to at least \$250,000. For example, a qualifying business in which equity investments qualifying for investment tax credits were made in 2011 shall have an equity deadline of June 30, 2014. Examples of sufficient information and documentation include, but are not limited to, the following:

ITEM 2. Amend paragraph **115.9(1)“b”** as follows:

b. On or by the ~~last day of the 24 month period described in paragraph 115.9(1)“a,”~~ equity deadline, a qualifying business shall certify to the authority, by a statement signed by an officer, director, member, manager, or general partner of the qualifying business, that it ~~has~~ has secured the requisite amount of equity financing required by this rule within the time period prescribed in paragraph 115.9(1)“a” 24 months from the date on which the equity investments qualifying for investment tax credits were made and shall recertify to the authority that the qualifying business continues to meet the requirements set forth in subrule 115.5(1).

ARC 1291C

INSPECTIONS AND APPEALS DEPARTMENT[481]

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 231C.3 and 231D.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 69, “Assisted Living Programs,” and Chapter 70, “Adult Day Services,” Iowa Administrative Code.

The amendments clarify the parameters assisted living and adult day services programs must follow in order to avoid licensure as a food establishment pursuant to Iowa Code chapter 137F. Licensure as a food establishment will not be required as long as food activities are limited as outlined in the amendments.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 11, 2014. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 231C.3(1) and 231D.2.

The following amendments are proposed.

ITEM 1. Amend subrule 69.28(6) as follows:

69.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to tenants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program’s kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with tenants may be stored in the program’s kitchen. Tenant activities may include the preparation and cooking of food items in the program’s kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program’s menu.

d. Appropriately trained staff may prepare in the program’s kitchen individual quantities of tenant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program’s kitchen. These food items may not be cooked in the program’s kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for tenant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Tenants may take food items left over from a meal back to their apartments. The program may not store leftovers in the program’s kitchen.

f. Warewashing may be done in the program’s kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

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

ITEM 2. Amend subrule 70.28(6) as follows:

70.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to participants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with participants may be stored in the program's kitchen. Participant activities may include the preparation and cooking of food items in the program's kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program's menu.

d. Appropriately trained staff may prepare in the program's kitchen individual quantities of participant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program's kitchen. These food items may not be cooked in the program's kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for participant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

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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 sections 507B.12 and 510B.3, the Iowa Insurance Division (the Division) hereby gives Notice of Intended Action to amend Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

These amendments are proposed to implement and administer the provisions of Iowa Code chapters 507, 510, and 510B, which regulate examinations of insurance companies, third-party administrators, and pharmacy benefits managers, respectively.

The amendments to Chapter 59 set forth and clarify duties of insurers and pharmacy benefits managers. It is the intention of the Division that these amendments shall become effective April 23, 2014, and that insurers and pharmacy benefits managers must be in compliance with the amendments beginning April 23, 2014, except that pharmacy benefits managers must be in compliance with amended rule 191—59.3(510B) as set forth in that rule.

Any interested person may make written suggestions or comments on these proposed amendments until 4:30 p.m. on February 11, 2014. Such written comments should be directed to Rosanne Mead, Iowa Securities Bureau, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319-0065; fax (515)281-3059; e-mail rosanne.mead@iid.iowa.gov.

Also, there will be a public hearing on February 11, 2014, at 10 a.m., at the offices of the Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views about the amendments either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record.

INSURANCE DIVISION[191](cont'd)

Any person who intends to attend the public hearing and who has special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

These rules are subject to waiver consistent with the waiver provisions provided for in 191—Chapter 4.

After review and analysis of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 17A, 505, 507, 510, 510B and 514L.

The following amendments are proposed.

ITEM 1. Amend rule 191—59.1(510B) as follows:

191—59.1(510B) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code Supplement chapter 510B relating to the regulation of pharmacy benefits managers.

ITEM 2. Amend rule 191—59.2(510B) as follows:

191—59.2(510B) Definitions. The terms defined in Iowa Code Supplement section sections 510.11 and 510B.1 shall have the same meaning for the purposes of this chapter. The definitions contained in 191—Chapter 58, “Third-Party Administrators,” and 191—Chapter 78, “Uniform Prescription Drug Information Card,” of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

“*Clean claim*” means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the ~~pharmacist or pharmacies~~ pharmacy or the ~~insured~~ covered individual in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected.

“*Complaint*” means a written communication expressing a grievance or an inquiry concerning a transaction between a pharmacy benefits manager and a pharmacy ~~or pharmacist~~.

“*Corrective action plan*” means an agreement entered into by a pharmacy benefits manager and a pharmacy which is intended to promote accurate submission and payment of pharmacy claims.

“*Day*” means a calendar day, unless otherwise defined or limited.

“*Paid*” means the later of either the day on which the check payment is mailed by the pharmacy benefits manager or the day on which the electronic payment is processed by the pharmacy benefits manager’s bank.

“*Pharmacist*” means “pharmacist” as defined in Iowa Code section 155A.3.

“*Pharmacy*” means “pharmacy” as defined in Iowa Code section 155A.3 and includes “pharmacist.”

ITEM 3. Amend rule 191—59.3(510B) as follows:

191—59.3(510B) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a contract between a pharmacy benefits management plan manager and a pharmacy shall be paid as soon as feasible but within 20 15 days after receipt of a clean claim ~~when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.~~

59.3(2) Payments to the pharmacy ~~or pharmacist~~ for clean claims are considered to be overdue if not paid within ~~20 or 30~~ 15 days, ~~whichever is applicable.~~ If any clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy ~~or pharmacist~~ interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) For each contract between a pharmacy benefits manager and a pharmacy, the pharmacy benefits manager must be in compliance with this rule no later than the first annual contract renewal on or after April 23, 2014, but no later than January 1, 2015, whichever occurs first. Existing For

INSURANCE DIVISION[191](cont'd)

existing contracts between clients pharmacies and pharmacy benefits managers shall comply with the requirement that clean claims be paid within 20 or 30 days, whichever is applicable, when such contracts are renegotiated on or after January 1, 2009, but no later than December 31, 2009, until the first annual contract renewal on or after April 23, 2014, but no later than January 1, 2015, whichever occurs first, all benefits shall be paid as soon as feasible but shall be paid within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format. If any clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(4) Pharmacy benefits managers may demonstrate the date a claim is paid by a mail record or a bank statement.

ITEM 4. Rescind rule **191—59.4(510B)**.

ITEM 5. Renumber rules **191—59.5(510B)**, **191—59.6(510B)** and **191—59.7(510B)** as **191—59.7(510B)**, **191—59.4(510B)** and **191—59.5(510B)**, respectively.

ITEM 6. Amend renumbered rule 191—59.4(510B) as follows:

191—59.4(510B) Auditing practices Audits of pharmacies by pharmacy benefits managers.

59.4(1) An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

a. and *b.* No change.

c. When a pharmacy benefits manager alleges an overpayment error in reimbursement has been made to a pharmacy or pharmacist, the pharmacy benefits manager shall provide the pharmacy or pharmacist sufficient documentation to determine the specific claims included in the alleged overpayment error;

d. A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for prescription drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug dispensed pursuant to a prescription;

e. Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;

f. The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such companies, groups, or a department entities;

g. to *i.* No change.

j. The audit criteria set forth in this subrule shall apply only to audits of claims submitted for payment after December 31, 2008. If it is determined by the pharmacy benefits manager that an error in reimbursement occurred, the following criteria apply:

(1) A pharmacy's usual and customary price for compounded medications is considered the reimbursable cost, unless the pricing methodology is outlined in the provider contract.

(2) A finding of error in reimbursement must be based on the actual error in reimbursement and not be based on a projection of the number of patients served having a similar diagnosis nor on a projection of the number of similar orders or refills for similar prescription drugs.

(3) Calculations of errors in reimbursement must not include dispensing fees unless: prescriptions were not actually dispensed; the prescriber denied authorizations; the prescriptions dispensed were medication errors by the pharmacy; or the amounts of the dispensing fees were incorrect.

(4) Any clerical or record-keeping error of the pharmacy, including but not limited to a typographical error, scrivener's error, or computer error, regarding a required document or record, shall not be considered fraud by the pharmacy under subrule 59.5(4) or under a pharmacy's contract with the pharmacy benefits manager.

(5) In the case of an error that has no actual financial harm to the patient or covered entity, the pharmacy benefits manager shall not assess a charge against the pharmacy.

INSURANCE DIVISION[191](cont'd)

(6) If a pharmacy has entered into a corrective action plan with a pharmacy benefits manager, errors that are a result of the pharmacy's failure to comply with such plan may be subject to recovery.

(7) Interest may not accrue during the audit period for either party. For purposes of this rule, the audit period begins with the notice of the audit and ends with a final determination of the audit report.

59.4(2) Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the ~~recuperation~~ of recoupment or contractual penalties for audits unless required by state or federal laws or regulations. The entity may not use the accounting practice of extrapolation in a manner more stringent than that required by state or federal laws or regulations.

59.4(3) Recoupment of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrules ~~59.6(4)~~ 59.4(4) and ~~59.6(5)~~ 59.4(5).

59.4(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. The pharmacy benefits manager shall conduct a review of the unfavorable preliminary audit report. The cost of the audit review shall be paid by the pharmacy benefits manager. If, following the appeal review, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the unsubstantiated audit report or said unsubstantiated portion of the audit report without the necessity of any further proceedings.

59.4(5) A pharmacy benefits manager shall have a process for an independent third-party review of final audit findings. If, following the final appeal of an audit report and upon conducting an audit review, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is found to be substantiated, the pharmacy benefits manager shall already have in place a process for an independent third-party review of the final audit findings. As part of the final appeal process of any final adverse decision, the pharmacy benefits manager shall notify the pharmacy in writing of its right to request an independent third-party review of the final audit findings and the process used to request such a review. If a pharmacy requests an independent third-party review of the final audit findings, and if the audit report is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy, or if the audit report is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager. If the reviewer finds partially in favor of both parties, the reviewer shall apportion the costs accordingly and each party will bear a portion of the costs of the review.

59.4(6) Any pharmacy's appeal or request for an independent third-party review of an audit report shall be considered a complaint and shall be included in the report required by subrule 59.7(2).

~~59.4(6)~~ **59.4(7)** Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the plan sponsor covered entity.

~~59.4(7)~~ **59.4(8)** This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

ITEM 7. Amend renumbered rule 191—59.5(510B) as follows:

191—59.5(510B) ~~Termination of pharmacy contracts~~ Termination of contracts with pharmacies by pharmacy benefits managers.

59.5(1) A pharmacy or pharmacist shall not be terminated from the pharmacy benefits manager's provider network or otherwise penalized by a pharmacy benefits manager solely because of filing a complaint, grievance or appeal with any entity. A pharmacy benefits manager shall not imply or state that it may or will take action to cancel or limit a pharmacy's participation in a pharmacy benefits manager's provider network solely because of a pharmacy's filing of a complaint, grievance or appeal with any entity.

59.5(2) A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager due to any disagreement with the a decision of the pharmacy benefits manager to deny or limit benefits to covered persons individuals or due to any assistance provided to covered persons individuals by the pharmacy or pharmacist in obtaining reconsideration of the a decision of the pharmacy benefits manager.

INSURANCE DIVISION[191](cont'd)

~~59.5(3) Termination of contracts~~ Contracts between a pharmacy benefits manager and a pharmacy shall include a provision describing notification procedures for contract termination. The contract shall require no less than 60 days' prior written notice by either party that wishes to terminate the contract.

~~59.5(4)~~ If the pharmacy benefits manager has evidence that the pharmacy ~~or pharmacist~~ has engaged in fraudulent conduct or poses a significant risk to patient care or safety, the pharmacy benefits manager may immediately suspend the pharmacy ~~or pharmacist~~ from further performance under the contract ~~provided only if~~ written notice of termination suspension is provided to the pharmacy ~~or pharmacist~~, the covered entity and the commissioner.

~~59.5(5)~~ Termination of a contract between a pharmacy benefits manager and a pharmacy ~~or pharmacist~~ or termination of a pharmacy ~~or pharmacist~~ from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy ~~or pharmacist~~ for contract-covered services rendered before the contract of the pharmacy ~~or pharmacist~~ was terminated.

~~59.5(6) Independent third-party review of termination decision.~~ The pharmacy ~~or pharmacist~~ may request an independent third-party review of the final decision to terminate the contract between the pharmacy benefits manager and the pharmacy ~~or pharmacist~~ by filing with the pharmacy benefits manager a written request for an independent third-party review of the decision. This written request must be filed with the pharmacy benefits manager within 30 days of receipt of the final termination decision.

~~59.5(7)~~ Any request by a pharmacy for an independent third-party review of a termination decision shall be considered a complaint and included in the report required by subrule 59.7(2).

~~59.5(8)~~ If a pharmacy requests an independent third-party review of a termination decision, and if the termination is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy, or if the termination is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager.

ITEM 8. Adopt the following new rule 191—59.6(510B):

191—59.6(510B) Notification of price change. For purposes of Iowa Code section 510B.7(3), the three business days for adjustments in payments shall be calculated from the day the pharmacy benefits manager becomes aware of a price change by a manufacturer or supplier. The pharmacy benefits manager shall immediately notify pharmacies and pharmacy network providers of the price change. This notification may be made by providing access for pharmacies and pharmacy network providers to an online price listing that includes current prices and the most recent price changes.

ITEM 9. Amend renumbered rule 191—59.7(510B) as follows:

191—59.7(510B) Complaints.

~~59.7(1)~~ Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to:

~~a.~~ Complaints from the any pharmacy indicating the reason for the complaint and factual documentation to support the complaint;

~~b.~~ ~~Contact name, address and telephone number of the pharmacy benefits manager;~~

~~c.~~ Contact For each complaint, contact name, address and telephone number of the pharmacy;

~~d.~~ Prescription number;

~~e.~~ Prescription reimbursement amount for disputed ~~claim(s)~~ claims;

~~f.~~ Disputed prescription claim payment ~~date(s)~~ dates;

~~g.~~ Plan Covered entity benefits certificate.

~~59.7(2)~~ A summary of all complaints as outlined in subrule 59.5(1) received by the pharmacy benefits manager shall be submitted to the commissioner on a quarterly basis within 30 days after the calendar quarter has ended. The summary shall include the name, address, telephone number and e-mail address for a contact person for the pharmacy benefits manager.

INSURANCE DIVISION[191](cont'd)

ITEM 10. Adopt the following new rule 191—59.8(510,510B):

191—59.8(510,510B) Duty to notify commissioner of fraud. A covered entity that contracts with a pharmacy benefits manager to perform the covered entity's services shall require the pharmacy benefits manager to follow Iowa Code section 507E.6 in notifying the commissioner of any detection of fraud, including but not limited to prescription drug diversion activity. "Prescription drug diversion activity," for purposes of this rule, means the diversion of prescription drugs from legal and medically necessary uses to uses that are illegal and not medically authorized or necessary. A pharmacy benefits manager shall follow the fraud detection protocol developed by the covered entity or shall allow the covered entity to review and agree to the pharmacy benefits manager's protocol.

ITEM 11. Adopt the following new rule 191—59.9(507,510,510B):

191—59.9(507,510,510B) Commissioner examinations of pharmacy benefits managers.

59.9(1) Pharmacy benefits managers shall cooperate with the commissioner for the commissioner's administration of Iowa Code chapters 507, 510, and 510B, and this chapter.

59.9(2) Pharmacy benefits managers shall maintain for five years the records necessary to demonstrate to the commissioner compliance with this chapter. Pharmacy benefits managers shall provide the commissioner easy accessibility to records for examination, audit and inspection to verify compliance with this chapter.

ITEM 12. Adopt the following new rule 191—59.10(505,507,507B,510,510B,514L):

191—59.10(505,507,507B,510,510B,514L) Failure to comply. Failure to comply with the provisions of this chapter or with Iowa Code chapters 510 and 510B, or failure to comply with 191—Chapter 38 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter or of Iowa Code chapters 510 and 510B, shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B.

ITEM 13. Amend **191—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 505, 507, 510, 510B and 514L and ~~Iowa Code Supplement chapter 510B.~~

NATURAL RESOURCES DEPARTMENT

Notice of Stakeholder Group

Subject: Review of topsoil preservation requirements for activities covered by National Pollutant Discharge Elimination System (NPDES) General Permit No. 2 for Storm Water Discharges Associated with Construction Activities

Pursuant to Executive Order 80, the Director of the Iowa Department of Natural Resources (Department) hereby gives Notice as to the formation of a Stakeholder Group to consider the need for rule changes in the Iowa Administrative Code (IAC): 567—subrule 64.15(2), which adopts by reference Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective October 1, 2012, to October 1, 2017.

The purpose of the stakeholder group is to consider alternatives and make recommendations in regard to the soil preservation provisions of Part IV(D)(2)(A)(2)(c) of NPDES General Permit No. 2, the relevant portion of which states:

A.(2).(c). Unless infeasible, the following measures shall be implemented at all sites: utilize outlet structures that withdraw water from the surface when discharging from basins, provide and maintain natural buffers around surface waters, direct storm water to vegetated areas to increase sediment removal and maximize storm water infiltration and

NATURAL RESOURCES DEPARTMENT(cont'd)

minimize soil compaction. Topsoil shall be preserved at all construction sites unless land use precludes the practice. The requirement to preserve topsoil shall be met only when the depth of topsoil after soil disturbing activities have been completed and final stabilization achieved for the permitted activity is equal to, or greater than, 4.0 inches, including soil contained in sod, on all areas of the site where the surface of the ground disturbed for the permitted construction activities is exposed and not covered by concrete, asphalt, gravel or other such material and where 4.0 inches or more of topsoil existed prior to the commencement of soil disturbing activities that are permitted under the current permit authorization for the site. On areas where less than 4.0 inches of topsoil existed prior to the commencement of soil disturbing activities that are permitted under the current permit authorization for the site, the minimum depth of topsoil after soil disturbing activities have been completed and final stabilization achieved for the permitted activity shall be equal to, or greater than, the depth of topsoil that existed prior to the commencement of soil disturbing activities that are permitted under the current permit authorization for the site.

The final topsoil depth is to be measured after the soil has been compacted in a fashion generally considered adequate for an established lawn and so that the expected settling that will occur after measurement will be minimal and shall include the soil contained in any sod that has been placed on the site. The type of topsoil at the site after soil disturbing activities have been completed and final stabilization achieved for the permitted activity shall be similar to that which exists or existed in the general area of the site.

For construction activity which is part of a larger common plan of development, such as a housing or commercial development project, in which a new owner agrees in writing to be solely responsible for compliance with the provisions of this permit for the property which has been transferred or in which the new owner has obtained authorization under this permit for a lot or lots (as specified in subrule 567-64.6(6) of the Iowa Administrative Code), the topsoil preservation requirements described above must be met no later than at the time the lot or lots have reached final stabilization as described in this permit.

For sites where less than 4.0 inches of topsoil is to be in place after soil disturbing activities have been completed and final stabilization achieved for the permitted activity, a soil survey conducted by properly qualified personnel who regularly conduct soil surveys as part of their normal job duties must be conducted prior to commencement of soil disturbing activities that are permitted under the current permit authorization for the site. The results of the soil survey shall become part of the Pollution Prevention Plan and shall indicate the depth of topsoil at a suitable number of points on the site commensurate with standard engineering practices established for the size of the site.

This provision is intended to implement the federal requirement in 40 Code of Federal Regulations § 450.21(a)(7) and the federal NPDES General Permit for Discharges from Construction Activities, which states:

“2.1.2.7 **Preserve Topsoil.** You must preserve native topsoil on your site, unless infeasible.”

For the purpose of clarity and to discourage a more stringent interpretation by local officials or EPA, the Department defined the preservation of topsoil as retaining a minimum of 4 inches of topsoil at construction sites when this is consistent with land use practices after construction has been completed. This depth was chosen after consultation with developers, city officials and the Statewide Urban Design and Standards Manual, which stipulates, among other things, design standards for city streets, driveways and sidewalks. The 4-inch topsoil depth is consistent with these standards and current development practices, but concerns have been raised regarding the implementation of this provision since its adoption in 2012. Concerns have been expressed by impacted individuals that the cost and impacts of the topsoil

NATURAL RESOURCES DEPARTMENT(cont'd)

preservation requirements are greater than anticipated and greater than what should reasonably be borne by developers and home buyers.

The stakeholder group will consider alternative topsoil preservation requirements that would satisfy the federal requirement, maintain locally expected levels of surface water protection and soil preservation, and minimize costs associated with these standards.

All interested stakeholders who represent the varying interests impacted by Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2 and the discharge of storm water from construction sites should contact Director Chuck Gipp, c/o Joe Griffin, IDNR – NPDES Permitting Section, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. The Director will determine which stakeholders should make up the group in order to represent the varied interests. Information may be sent by fax to (515)281-8895 or by e-mail to Joe.Griffin@dnr.iowa.gov no later than February 19, 2014. All stakeholders are asked to provide the following information:

1. Name;
2. Telephone number;
3. E-mail address;
4. City;
5. Profession;
6. General availability to meet;
7. Explanation of stakeholder interest and how the issue impacts the stakeholder; and
8. Description of how the stakeholder can help improve the soil preservation requirements of NPDES General Permit No. 2.

ARC 1293C

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 2013 Iowa Acts, Senate File 419, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 52, “Vision Screening,” Iowa Administrative Code.

The 85th General Assembly, in 2013 Iowa Acts, Senate File 419, established a vision screening requirement for children enrolled in a public or accredited nonpublic elementary school and directed the Department to adopt rules necessary to administer vision screening.

These proposed rules describe the vision screening requirement for children enrolling in kindergarten and third grade. The rules specify the procedures that constitute a vision screening, specify who can conduct a screening, and prescribe reporting requirements.

Any interested person may make written comments or suggestions on the proposed rules on or before February 11, 2014. Such written comments should be directed to Melissa Ellis, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6013 or by e-mail to melissa.ellis@idph.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement 2013 Iowa Acts, Senate File 419.

The following amendment is proposed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Adopt the following new 641—Chapter 52:

CHAPTER 52
VISION SCREENING

641—52.1(135) Purpose. The purpose of the child vision screening requirement is to improve the eye health and vision of Iowa's children. Child vision screenings will facilitate early detection and referral for treatment of visual impairment, including amblyopia; reduce the incidence, impact, and cost of visual impairment, vision loss, and maldevelopment; inform parents and guardians of their children's visual impairment; promote the importance of eye health as an integral component of preparation for school and learning; and contribute to statewide surveillance of eye health. These rules promote the concepts of prevention, education, care coordination, and treatment related to the prevention of amblyopia and promote overall eye health in children in Iowa.

641—52.2(135) Definitions. For purposes of this chapter, the following definitions apply:

“Advanced registered nurse practitioner” or *“ARNP”* means a person licensed to practice under 655—Chapter 7.

“Amblyopia” means an eye disorder characterized by impaired vision in an eye that otherwise appears normal, or out of proportion to associated structural abnormalities of the eye; also known as “lazy eye.”

“Comprehensive eye examination” means a clinical diagnostic assessment performed by an optometrist or ophthalmologist to assess a person's level of vision as well as detect any abnormality or diseases.

“Department” means the Iowa department of public health.

“Elementary school” means kindergarten through grade six in an Iowa school district or accredited nonpublic school.

“HOTV chart” means a vision screening test that determines relative visual acuity for distance vision using a chart with the four letters H, O, T and V.

“Iowa KidSight” means a joint project of the Lions Clubs of Iowa and the University of Iowa, Department of Ophthalmology and Visual Sciences, dedicated to enhancing the early detection and treatment of vision impairments in Iowa's young children (target population 6 months of age through 48 months of age) through screening and public education.

“IRIS” means the immunization registry as established in 641—Chapter 7.

“Lea symbol chart” means a vision screening test that determines relative visual acuity for distance vision using a chart with the four symbols circle, square, house, and apple.

“Online vision screening” means a validated vision screening test administered from the Internet at www.visionforkids.org to a child to assess vision and includes vision test results and recommendation.

“Ophthalmologist” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148 and board-certified in ophthalmology as a specialist in medical and surgical eye problems.

“Optometrist” means a person licensed to practice optometry pursuant to Iowa Code chapter 154.

“Photoscreening” means a method of vision screening with a machine with automated technique that uses the red reflex of the eye to screen for eye problems and produces immediate readable results and timely report of the results thereafter.

“Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148.

“Physician assistant” means a person licensed to practice as a physician assistant pursuant to Iowa Code chapter 148C.

“Potential vision impairment” means a child's vision appears to be compromised and there is reason for the child to be seen by an ophthalmologist or optometrist.

“Snellen letter chart” means a vision screening test that determines relative visual acuity for distance vision using a chart consisting of eight or more rows of progressively smaller block-type letters.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Vision screening*” means an eye testing program that assesses visual distance acuity or any other system of testing that assesses refractive error and other conditions (misalignment, media opacities) that can lead to amblyopia, including:

1. Snellen letter chart.
2. HOTV chart.
3. Lea symbol chart.
4. Photoscreening by Iowa KidSight.
5. Approved online vision screening at www.visionforkids.org.

641—52.3(135) Persons included and persons excluded.

52.3(1) The parent or guardian of a child to be enrolled in a public or accredited nonpublic elementary school shall ensure that the child is screened for vision impairment at least once before enrollment in kindergarten and again before enrollment in grade three. The child vision screening requirements specified in this chapter apply to all persons seeking first-time enrollment of a child(ren) in kindergarten or third grade in a public or accredited nonpublic elementary school in Iowa.

52.3(2) The child vision screening requirement shall not apply if the child vision screening conflicts with a parent’s or guardian’s genuine and sincere religious belief.

52.3(3) A child shall not be prohibited from attending school based upon failure of a parent or guardian to ensure that the child has received the vision screening required by these rules.

641—52.4(135) Child vision screening components. The requirement for a child vision screening may be satisfied by any of the following:

52.4(1) A vision screening or comprehensive eye examination by an ophthalmologist or optometrist.

52.4(2) A vision screening conducted at a pediatrician’s or family practice physician’s office, a free clinic, a child care center, a local public health department, a public or accredited nonpublic school, or a community-based organization or by an advanced registered nurse practitioner or physician assistant.

52.4(3) An online vision screening, administered from the Internet at www.visionforkids.org, which may be conducted by a child’s parent or guardian.

52.4(4) A photoscreening vision screening, including a vision screening by Iowa KidSight.

641—52.5(135) Time line for valid vision screening.

52.5(1) Kindergarten. To be valid, a child vision screening shall be performed on a child no earlier than one year prior to the child’s enrollment date into kindergarten and no later than one year after that enrollment date.

52.5(2) Grade three. To be valid, a child vision screening shall be performed on a child no earlier than one year prior to the child’s enrollment date into the third grade and no later than one year after that enrollment date.

52.5(3) Substantial compliance. A child vision screening may also be deemed valid by the department if the department determines that the child has substantially complied with the child vision screening requirements.

641—52.6(135) Proof of child vision screening.

52.6(1) The parent or guardian of a child enrolled in kindergarten or third grade shall ensure that evidence of a child vision screening is submitted either electronically through IRIS pursuant to subrule 52.6(2) or in hard copy or electronic form pursuant to subrule 52.6(3) to the school district or accredited nonpublic elementary school in which the child is enrolled.

52.6(2) If the child’s vision screening results were electronically submitted to IRIS by the person authorized to perform a child vision screening or through an approved online vision screening, the parent or guardian may notify the school district or accredited nonpublic elementary school of such submission to satisfy the requirement in subrule 52.6(1).

52.6(3) If evidence of the child vision screening is not electronically submitted to IRIS, the parent or guardian shall provide evidence of the child vision screening in hard copy or electronic form directly

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to the school. Hard-copy or electronic evidence of the vision screening shall include the child's name, grade, and school; evidence of the vision screening, including visual acuity, external and internal eye health, vision analysis, and vision correction recommendations, if any; and the name of the provider who performed the vision screening. A parent may submit a completed student vision card to satisfy this requirement.

52.6(4) A faxed copy, photocopy, or electronic copy of the valid child vision screening results is acceptable.

641—52.7(135) Child vision screening reporting.

52.7(1) A person authorized to perform a child vision screening required by this chapter shall report results of the child vision screening to the department.

a. An ophthalmologist or optometrist shall report the results to IRIS.

b. A pediatrician's or family practice physician's office, a free clinic, a child care center, a local public health department, a public or accredited nonpublic school, or a community-based organization or an ARNP or physician assistant shall report the results to IRIS.

c. Results from an online vision screening, administered from the Internet at www.visionforkids.org, shall be reported automatically through IRIS.

d. Photoscreening vision screening, including Iowa KidSight, shall report results to IRIS.

52.7(2) The department will collect and maintain results of the vision screenings through IRIS.

641—52.8(135) School requirements.

52.8(1) Prior to student enrollment or during the enrollment period, each public and accredited nonpublic elementary school, in collaboration with the department, shall provide vision screening referral resources to the parents or guardians of students enrolled in the school.

52.8(2) Each public and accredited nonpublic elementary school shall provide community eye health referral resources, including contact information for the local public health department, maternal and child health agency, Iowa KidSight, the department, or an optometric or ophthalmology society, to parents or guardians of students for whom the parents or guardians did not submit evidence of a child vision screening.

52.8(3) Each public and accredited nonpublic elementary school shall arrange for evidence of child vision screening results provided by parents or guardians to be forwarded to the department, including the forwarding of a list of students whose results were reported to IRIS, forwarding of originals or copies of all student vision cards provided to the school, and forwarding of any other evidence of vision screening provided to the school.

641—52.9(135) Iowa's child vision screening database module and follow-up. The department may develop and maintain a statewide child vision screening database module in the statewide immunization registry to collect and maintain child vision screening results, to ensure that students receive the required vision screening, and to monitor eye health.

52.9(1) The database module shall consist of vision screening information, including identifying and demographic data.

52.9(2) Database module reporting shall comply with rule 641—52.7(135).

52.9(3) Restricted uses of database module. The database module information shall not be used to:

a. Market services to students or nonstudents,

b. Assist in bill collection services, or

c. Locate or identify students or nonstudents for any purpose other than those expressly provided in these rules.

52.9(4) Confidentiality of database module information. Child vision screening information, including identifying and demographic data maintained in the database module, is confidential and may not be disclosed except under the following limited circumstances:

a. The department may release information from the database module to the following:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- (1) The person who received the child vision screening or the parent or guardian of the person who received the child vision screening.
- (2) Users of the database module who complete an agreement with the department that specifies the conditions under which the database module can be accessed and who have been issued an identification code or password by the department.
- (3) Persons or entities requesting child vision screening data in an aggregate form that does not identify an individual either directly or indirectly.
- (4) Agencies that complete an agreement with the department that specifies conditions for access to database module information and how that information will be used.
- (5) A representative of a state or federal agency, or an entity bound by that state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa.
- (6) Licensed health care providers, agencies, and other persons involved with vision screenings, eye examinations, follow-up services, and intervention services as necessary to administer this chapter.
 - b.* Approved database module users shall not release child vision screening data except to the person who received the child vision screening; the parent or guardian of the person who received the child vision screening; health records staff of schools; medical, optometry, ophthalmology or health care providers providing continuity of care; and other approved users of the database module.

641—52.10(135) Referral requirements.

52.10(1) If a vision screening identifies a potential vision impairment in a child, the person who performed the vision screening shall, if the person is not an ophthalmologist or optometrist, refer the child to an ophthalmologist or optometrist for a comprehensive eye examination.

52.10(2) The department shall contact parents or guardians of children identified as having potential vision impairment based on the results of a vision screening required pursuant to this chapter or a comprehensive eye examination required pursuant to subrule 52.10(1) in order to provide information on obtaining necessary vision correction.

These rules are intended to implement 2013 Iowa Acts, Senate File 419.

ARC 1294C**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 144.3 and 144.46, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 95, “Vital Records: General Administration,” Iowa Administrative Code.

The rules in Chapter 95 describe the general administration of vital records, including definitions, fees, the handling of records, access to records, issuance of certified copies, and confidentiality.

Adopted and Filed amendments to Chapter 95 were published in the October 2, 2013, Iowa Administrative Bulletin as **ARC 1074C**, with an effective date of January 1, 2014. The Administrative Rules Review Committee voted a 70-day delay of subrule 95.6(2) at the Committee’s October 2013 meeting. This proposed amendment addresses the Committee’s concerns that precipitated the vote to delay. This proposed amendment reduces the overpayment amount to be retained by the Department to \$5 or less.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Any interested person may make written comments or suggestions on the proposed amendment on or before February 11, 2014. Such written comments should be directed to Jill France, Bureau of Health Statistics, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to jill.france@idph.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 144.46 and 144.46A.

The following amendment is proposed.

Rescind subrule 95.6(2) and adopt the following **new** subrule in lieu thereof:

95.6(2) Overpayments. Any overpayment of less than \$5 received by the state registrar for the copying of or search for vital records or for the preparation or amending of a certificate shall not be refunded and shall be retained by the department.

ARC 1292C**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,” and Chapter 132, “Emergency Medical Service—Service Program Authorization,” Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical care providers and establish a standard of conduct for training programs, students, and providers. The rules in Chapter 132 describe the standards for the authorization of EMS services. These proposed amendments update the reference to the Iowa EMS Scope of Practice document to the most recent edition, April 2013.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 11, 2014. Such written comments should be directed to Rebecca Curtiss, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to rebecca.curtiss@idph.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 147A.8.

The following amendments are proposed.

ITEM 1. Amend paragraph **131.3(3)“b”** as follows:

b. Scope of Practice for Iowa EMS Providers (April ~~2012~~ 2013) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

ITEM 2. Amend paragraph **132.2(4)“b”** as follows:

b. Scope of Practice for Iowa EMS Providers (April ~~2012~~ 2013) is hereby incorporated and adopted by reference for EMS emergency medical care providers. For any differences that may occur between the Scope of Practice adopted references by reference and these administrative rules, the administrative rules shall prevail.

PUBLIC SAFETY DEPARTMENT

Notice of Stakeholder Group

Criminal History Data – Fees

Pursuant to Executive Order 80, the Executive Director of the Iowa Commission on Volunteer Service in conjunction with the Iowa Department of Public Safety hereby gives Notice as to the formation of a Stakeholder Group to review rule 661—82.109(692) regarding Criminal History Data – Fees, Iowa Administrative Code.

The purpose of the stakeholder group is to streamline and improve the background check process for volunteers in organizations and schools throughout Iowa. The stakeholder group will develop a strategy for establishing a volunteer background check network and will provide guidance on appropriate levels of screening for different types of volunteers, in order to improve the efficiency and utility of volunteer screening while reducing redundant background checks.

All interested stakeholders who represent the varying interests impacted by the issue mentioned above should contact the Iowa Commission on Volunteer Service's Executive Director, Adam Lounsbury, 200 East Grand Avenue, Des Moines, Iowa 50309. The Director will determine which stakeholders should make up the group in order to represent the varied interests. Information may be sent by e-mail to icvs@iowa.gov no later than February 5, 2014. All stakeholders are asked to provide the following information:

1. Name;
2. Telephone number;
3. E-mail address;
4. City;
5. Profession;
6. General availability to meet;
7. Explanation of stakeholder interest and how the rule impacts the stakeholder; and
8. Description of how the stakeholder can add to the resolution of the fees for background checks for volunteers in Iowa.

ARC 1288C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to rescind Chapter 162, "Bridge Safety Fund," Iowa Administrative Code.

2010 Iowa Acts, chapter 1184, section 95, rescinded Iowa Code section 313.68, which created the bridge safety fund. The Department's rules concerning the bridge safety fund are no longer necessary since all of the funds have been used for the identified projects. These bridge projects were designed, constructed and paid for within the prescribed time period.

Any person or agency may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.

TRANSPORTATION DEPARTMENT[761](cont'd)

4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail tracy.george@dot.iowa.gov.

5. Be received by the Office of Policy and Legislative Services no later than February 11, 2014.

A meeting to hear requested oral presentations is scheduled for Thursday, February 13, 2014, at 10 a.m. at the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2010 Iowa Acts, chapter 1184, section 95.

The following amendment is proposed.

Rescind and reserve **761—Chapter 162**.

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 JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 4.75%.

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 Financial Institutions 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 10, 2014, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .10%

These are minimum rates only. All time deposits 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 1290C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5(10), the Department of Agriculture and Land Stewardship hereby rescinds Chapter 52, "Grape and Wine Development Funding Program," Iowa Administrative Code.

This amendment eliminates the program because the funding has been transferred to Iowa State University and the statutory provisions in Iowa Code chapter 175A have been repealed.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1193C** on November 27, 2013. No comments were received from the public. This amendment is identical to the amendment published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 159.5.

This amendment will become effective February 26, 2014.

The following amendment is adopted.

Rescind and reserve **21—Chapter 52**.

[Filed 1/2/14, effective 2/26/14]

[Published 1/22/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/14.

AGENCY	RULE	DELAY
Public Health Department[641]	Rescission of 29.4(3) [IAB 12/11/13, ARC 1220C]	Effective date of May 1, 2014, delayed until the adjournment of the 2014 General Assembly by the Administrative Rules Review Committee at its meeting held January 10, 2014. [Pursuant to §17A.8(9)]